
COUNTY OF LOUDOUN
DEPARTMENT OF PLANNING
MEMORANDUM

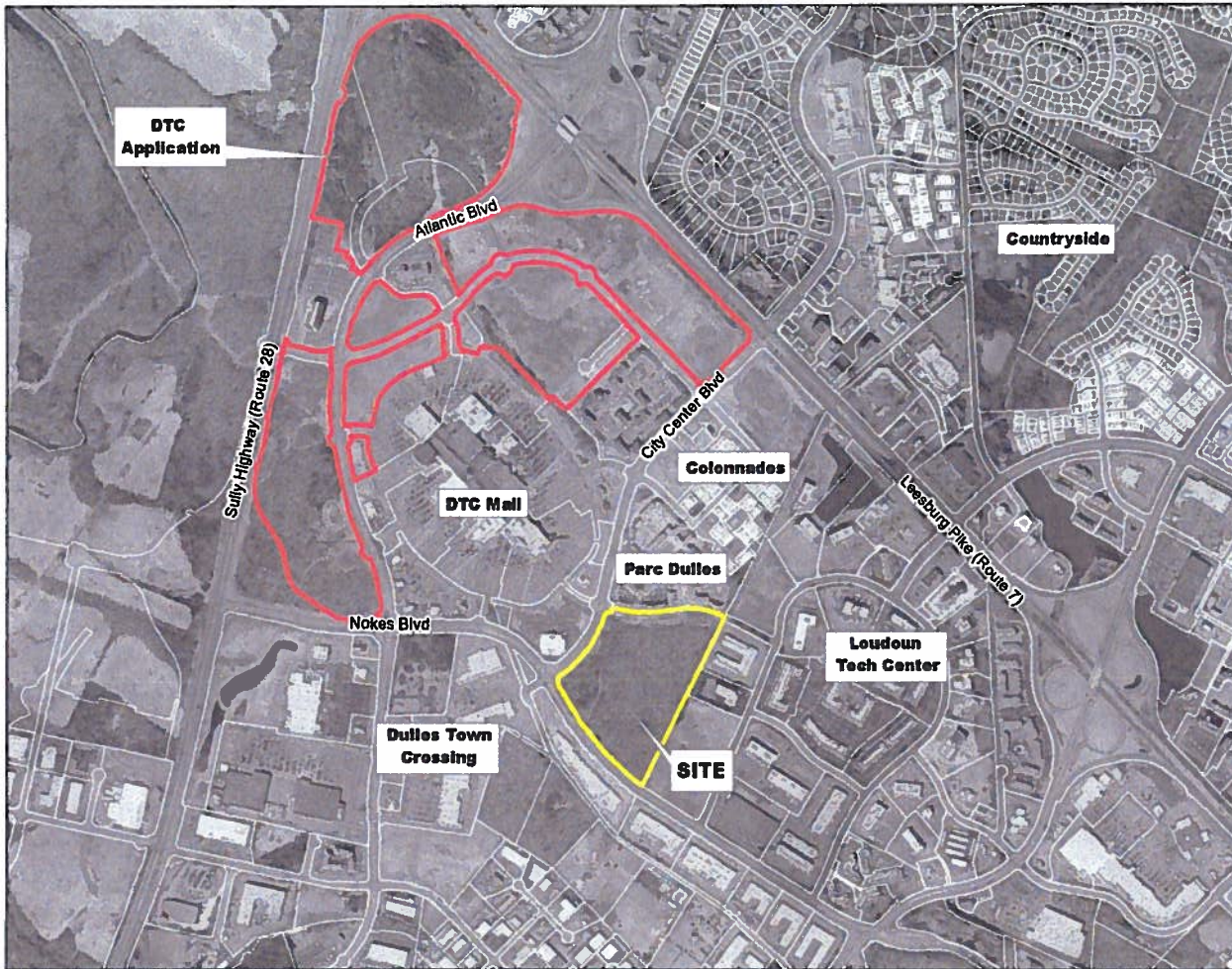
DATE: July 16, 2010
TO: Loudoun County Planning Commission
FROM: Ginny Rowen, Project Manager
SUBJECT: **July 21, 2010 Planning Commission Work Session**
ZMAP 2002-0017, SPEX 2008-0026, SPEX 2008-0027 – Parc Dulles II

BACKGROUND

The applications were heard by the Commission at the November 19, 2009 Planning Commission public hearing. One member of the public cited general concerns about residential development and its impact on surrounding schools to handle the increased number of students. The Planning Commission cited concerns regarding fiscal, capital facilities, school, and environmental impacts. Concerns were also cited about the proposed phasing / linkage between the residential and non-residential components. The Commission maintained that the project should be reviewed concurrently with the Dulles Town Center (ZMAP 2007-0001, SPEX 2008-0047, SPEX 2008-0048) applications in order to assess the overall impact of both developments. The applications were forwarded to a work session to continue discussing the outstanding issues cited in the staff report and at the public hearing (voting 8-0-1 Ruedisueli absent).

The applicant has not made any changes to these applications including the Rezoning Plat or draft proffers dated October 15, 2009. A copy of the Planning Commission staff report is provided as attachment 1. Staff has identified the outstanding issues as discussed in the staff report and continues to recommend denial of the applications based on:

- non-compliance with land use and design policies;
- phasing / linkage provisions between the residential and non-residential components;
- inadequate capital facilities contributions;
- inadequate commitments to implement the proposed Stream Valley Plan;
- stormwater management concerns;
- zoning issues (comprehensive plan conformance, the purpose of a PD-CC-CC (Commercial Center-Community Center district), and zoning modification requests);
- increased school impacts; and
- transportation issues (the need for a 4-lane extension of Haleybird Drive to Loudoun Tech Center, a cash equivalency for traffic signals, and provisions for transit contributions).



VICINITY MAP

ISSUE STATUS:

The following issues were identified by staff at the Planning Commission public hearing and remain outstanding:

1. **Revised General Plan policies call for the development of Keynote Employment at this location.** Areas designated as Keynote Employment are intended to be developed as premier office or research and development supported by ancillary retail and personal services for the employees. They include office parks, research and development parks, corporate headquarters, and similar uses of a large scale. Residential uses and community-serving commercial uses are not anticipated in Keynote Employment areas. The applicant has suggested that this proposal should be evaluated under the Urban Center policies instead of the Keynote Employment policies. The Revised General Plan does not intend that the entire 554 acre Dulles Town Center property will evolve into an Urban Center; instead, Plan policies limit the size of an Urban Center from 50 to 90 acres in order to achieve the development of a compact, pedestrian-oriented, and vertically integrated community. The applicant in the Dulles Town Center application (ZMAP 2007-0001 & ZCPA 2007-0001) has defined a specific area of the Dulles Town Center property in which the Urban Center will develop (Land Bays TC-1, TC-2, and TC-3) consisting of a total of 73 acres. The

subject site is not adjacent to this area nor is the proposal in this application a logical extension of the proposed Urban Center. The single-use residential buildings that are proposed as the dominant type of development do not advance the Plan's vision of an Urban Center.

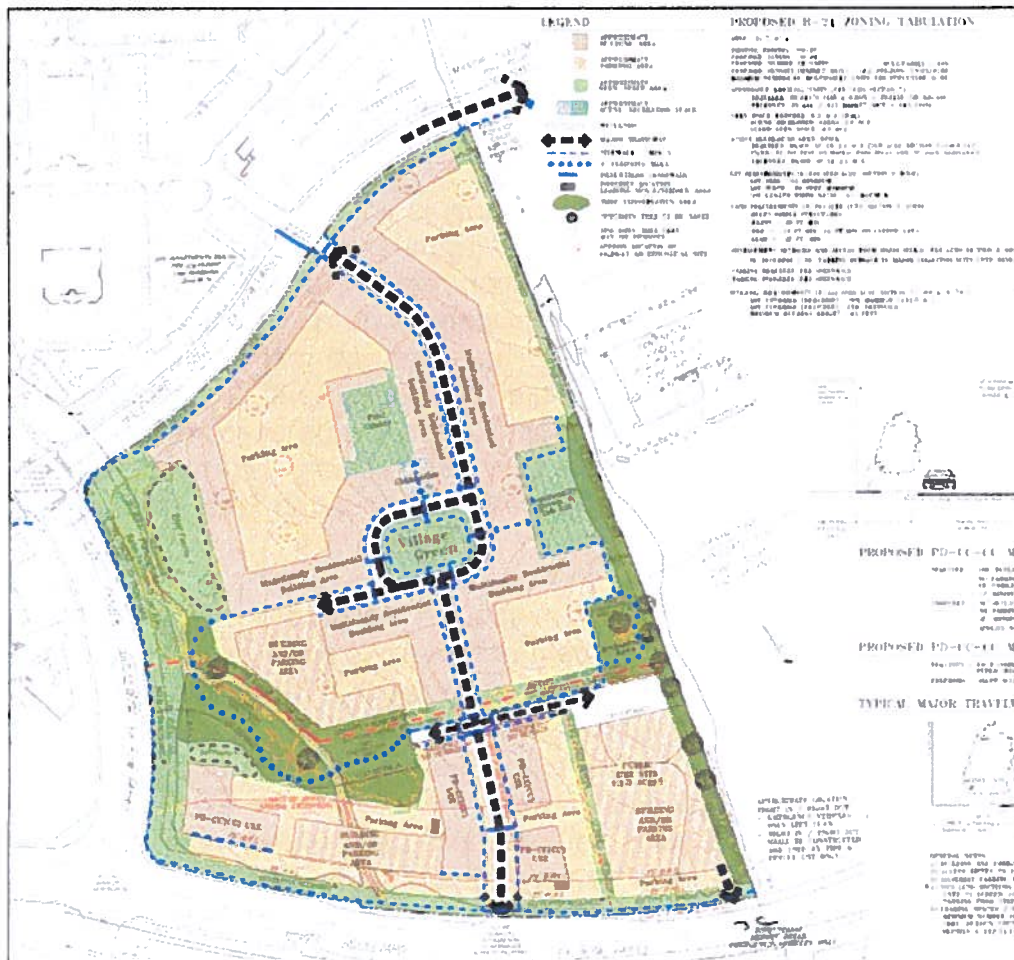
2. **The proposal does not comply with a Board of Supervisors resolution that prohibits residential conversions in Keynote areas.** On April 17, 1996, the Board of Supervisors adopted a resolution that prohibits the residential conversion of areas designated as Keynote Employment. The resolution noted that residential conversions defeat the Board's economic development goals for these crucial employment corridors.
3. **The percentages of open space and civic space are not in conformance with the land use mix specified for high-density Residential communities in the Revised General Plan.** The Revised General Plan calls for high-density residential neighborhoods to provide 10 percent (2.1 acres) of the gross acreage as civic space. The applicant is proposing to develop 445 multifamily units on 21.7 acres at a density of 20.5 dwelling units per acre. The applicant is designating a 3.3 acre potential fire and rescue site and 8,000 square foot clubhouse / community center as the civic component for the development. Staff has cited significant concerns regarding the potential fire and rescue site since the County is unable to commit to the specific site layout depicted on the Special Exception Plat (sheet 6). Staff had recommended that the applicant withdraw the Special Exception request for a fire and rescue site at this location; however, the applicant has decided to pursue the request. If the County chooses not to accept this particular site for a fire and rescue station, the applicant is proposing to limit development of the site to a public park. A park does not meet the definition of a civic use; therefore, the application will be deficient in civic space. Staff notes that a 5-acre fire and rescue site was recently approved by the Board of Supervisors in conjunction with the Kincora rezoning that was approved on July 12, 2010.

Plan policies state that high-density residential neighborhoods will fully incorporate open space at a minimum of 30 percent of the gross acreage of the property, totaling 6.5 acres for the subject site. The Plan recognizes that the provision of open space is critical in high-density residential neighborhoods because of the greater concentration of residents. Open space can include a variety of passive and active open space, including woods, wetlands, wet ponds, neighborhood and community parks, community gardens, athletic fields, tot lots, hiking and biking trails, streetscape areas, and other natural or man-made features that function as amenities. Open space policies state that 75 percent of the required open space should consist of interior open space. Perimeter buffers and leftover spaces can only account for 25% of the open space requirement. In order for this project to comply with these policies, at least 4.8 acres should be internal usable open space.

According to the Rezoning Plat (Sheet 4- see next page), the project includes 6.5 acres of open space within the residential component. The proposed open space within the project includes a village green, a community green and tot lot, an archaeological preserve, a Tree Conservation Area (TCA) surrounding the riparian

corridor, a stormwater management facility adjacent to City Center Boulevard and the perimeter buffers.

Staff maintains that all of the open space depicted on the Plat cannot be used to fulfill the open space requirements identified in the Plan. Stormwater management facilities cannot be included as open space features unless they are wet year-round (now proffered) and include amenities (such as gazebos, picnic areas, walking paths, or seating – not provided). Additional information has been requested to determine if the project provides sufficient internal open space. The illustrative plan (depicted below) shows residential buildings surrounding the community green & tot lot along the site's eastern boundary with Loudoun Tech Center. This area does not appear to meet the Plan's definition of internal open space since it will mainly serve the residents living in the surrounding buildings and appears to be isolated from the rest of the community. The development contains inadequate internal open space.



4. **A stronger commitment is needed to require the development of office and to link the office / commercial component to the residential component.** A central objective of the Revised General Plan is to balance business and residential development to promote an effective fiscal policy. The Plan calls for mixed-use projects to provide a development phasing plan that establishes a build-out relationship between the residential and non-residential components.

Approximately 36% of the overall site (12.4 of the total 34.1 acres) is proposed to be rezoned to a PD-CC-CC (Planned Development – Community Center - Commercial Center) zoning district to permit the development of up to 117,000 square feet of non-residential uses (.2 FAR). A Special Exception (SPEX 2008-0027) has been submitted to allow office square footage in excess of 20% of the commercial floor area. The draft proffers currently propose up to 75,000 square feet of office development on the site. However, the application does not actually require the development of any office. The draft proffers (Proffer I.A.2) state that the property will be developed with up to 117,000 square feet (including a 17,000 square foot fire and rescue site) of uses permitted in the PD-CC-CC zoning district (up to 60,000 square feet of retail and/ or up to 75,000 square feet of office with a maximum development of 100,000 square feet are proposed). If the application is approved as proposed, the applicant will have the option of developing the site in accordance with the office Special Exception or not. There are no assurances that any office will actually be developed on the site. In addition, the proffers currently state that 400 units (89 percent of the units) could be built if 14,000 square feet (14 percent) of the commercial component is constructed. Given the site's Keynote Employment designation, the applicant should commit to developing the full amount of office square footage proposed in the Special Exception. This could be accomplished by committing to a more balanced phasing plan that ensures the concurrent development of the non-residential and residential components.

5. **Commitments should be made to increase office densities and building heights.** The commercial component is proposed to be developed at a very low density (0.18 FAR) and includes more residential than commercial development. Recent changes to the Revised 1993 Zoning Ordinance allows the by-right development of office uses in PD-IP districts with performance standards (including a minimum of two-stories oriented on major road ways and the ability to achieve higher densities with Special Exception approval). The applicant should commit to higher minimum office / commercial densities as well as building heights of at least two stories. The applicant is encouraged to place retail on the first floor and office on the second floor.
6. **Provide a capital facilities contribution consistent with the Capital Intensity Factors adopted by the Board of Supervisors on July 21, 2009.** In accordance with Board policies a contribution of \$23,578 per market rate multi-family unit, (total of \$9,907,086) is anticipated. The proffers (Proffer VI.A.) state that the applicant will pay \$10,937 per dwelling unit for a total contribution of \$4,866,965 if the project is built out. The proposed contribution is significantly less than the anticipated contribution amount. The applicant maintains that the most recently adopted capital facilities amount should not apply to this application, since the proposal was originally submitted and heard by the Planning Commission in 2004. Staff maintains that the most recently adopted numbers should apply since this is a completely new land development proposal than the application that was originally reviewed by the Planning Commission in 2004.

County policies allow for a capital facilities credit for land that is dedicated to the County (in this case, a 3.3 acre public use site). An appraisal of the property to be

dedicated is required to be submitted for staff review to determine the actual amount of the credit. The applicant has not submitted an appraisal; therefore, the amount of the capital facilities credit is unknown at this time. In addition, it appears that the proposed fire and rescue site will not be pursued by the County at this location.

7. **Revised General Plan policies specify that cash contributions should include an escalation clause that is tied to the Consumer Price Index.** The draft proffers (Section VI.D.) state that contributions shall escalate by 2% every five years from the time of zoning approval. The proposed escalation clause does not ensure that the contribution amounts will keep up with inflation.
8. **Additional design commitments should be made to ensure a high-quality development.** The applicant has proffered to “design and construct the residential component with a combination of architectural design and materials found generally in better quality luxury residential developments” (such as Parc Dulles). Additional commitments include pedestrian-scale lighting and benches in active recreation spaces. Staff recommends additional design commitments, such as a variety of building types and acceptable building materials, architectural design elements, streetscape elements (such as benches, fountains, etc.), specific amenities in open space areas (such as benches, seating, gazebos, picnic areas, etc.), screening of trash collection areas and rooftop mechanical equipment which will ensure the development of a high-quality development.
9. **The proposal does not ensure the implementation of the Stream Valley Plan.** Notes on the rezoning plat (sheet 8-general note 3) require the approval of the Dulles Town Center application to implement the Stream Valley Plan consisting of re-vegetation, tree conservation and stream corridor preservation for the subject site. This note should be removed.
10. **There are inadequate stormwater management facilities for the public use site.** The applicant is currently proffering to construct stormwater management facilities when the adjacent residential component is developed. The rezoning plat (Sheet 4) indicates that two Stormwater Management/Best Management Practices (SWM/BMP) facilities will be provided on the subject property. The larger SWM / BMP facility (BMP Facility 1), proposed in the northwestern portion of the site, will be developed as a wet pond and will serve the entire development, including the proposed public use site in the southeastern corner. The applicant is proffering to develop this facility when the residential units are constructed. If the public use site is needed before the development of the residential units, the applicant is not proposing to construct interim SWM facilities for the site. Instead, public funds would be required to construct these facilities. Staff maintains that the applicant should provide adequate stormwater facilities for the public use site regardless of development timing.
11. **Additional proffer commitments are needed to ensure the viability of the archaeological site.** A previously unrecorded archaeological site (44LD947) has been identified along the eastern portion of the site within the residential component. The Phase I archeological survey identified it as an early nineteenth century domestic site based on the small artifact assemblage. The site is thought to be either a tenant or an

African American slave site. Sites relating to enslaved African Americans and tenant farmers are not well documented in the County or the region. This site may yield important information related to these populations. The site is considered to be potentially eligible for listing in the National Register of Historic Places by the consultant who conducted the Phase 1 survey. The applicant is preserving this site in a Tree Conservation Area (TCA) as depicted on the Rezoning Plat (sheet 4). The proffers (Proffer IV) provide a commitment that the applicant shall conduct a Phase II Archaeological Study for the site prior to any land disturbance and/or approval of any site plan on this portion of the site. The owner shall not be required to perform any additional archaeological studies for this site if it remains undisturbed in accordance with Plan policies. Staff has recommended a Phase II investigation to ascertain archeological site boundaries and eligibility for the National Register of Historic Places. A 25-foot buffer surrounding the site should also be specified. If tree removal is required for any reason, trees should be cut and not dug out. The draft proffers should be amended to reflect these commitments to ensure viability of the site.

12. **Board policy anticipates residential applications will include provisions for unmet housing needs across a broad segment of the County's income spectrum from 0 – 100% of the Area Median Income (AMI).** The application does not provide any commitments except for the required 28 Affordable Dwelling Units (ADUs).
13. **Shared-use trails along City Center Boulevard and Nokes Boulevard should be constructed to a width of ten-feet.** The rezoning plat depicts five foot wide sidewalks along both road frontages.
14. **A cash equivalency should be provided for future traffic signals.** The applicant has proffered to provide traffic signals at the intersection of Haleybird Drive/ City Center Boulevard and the Nokes Boulevard entrance. The County anticipates that two traffic signals will be needed to accommodate site traffic- one at the proposed site entrance off Nokes Boulevard and one at the intersection of City Center Boulevard and Haleybird Drive. The applicant has proffered to provide a warrant study (prior to the 300th residential unit for the City Center signal and within 2 years of the 50,000th square foot of commercial development for the Nokes signal) and to install both signals if warranted. If signals are not needed at the time the warrant study is completed, the applicant's proffers specify that there will be no obligation to provide traffic signals in the future. If traffic signals are not warranted at a specific time, developers generally proffer cash equivalencies to cover the cost to install traffic signals in the future when the signal is needed. The applicant has not agreed to provide a cash equivalency for future signals. This would require the use of public funds to install future traffic signals at these intersections.
15. **A commitment to extend Haleybird Drive should be provided.** A four-lane section of Haleybird Drive is already completed along the northern property line. The applicant has proffered to construct a half-section (2 lanes) of Haleybird Drive off-site to the east to connect with Ridgetop Circle in Loudoun Tech Center. Loudoun Tech Center has already dedicated sufficient right-of-way to accommodate the four-lane extension. The applicant proposes to provide a two-lane section of Haleybird Drive to Ridgetop Circle

prior to approval of the initial site plan for residential development or prior to occupancy of at least 50,000 square feet of commercial development.

In conjunction with the approved proffers for the Dulles Town Center rezoning application (ZMAP 1990-0014), the applicant provided a letter of clarification dated December 16, 1991, that required the construction of a half section (2-lanes) of Haleybird Drive from City Center Boulevard (Dulles Town Center) to Ridgetop Circle (Loudoun Tech Center). The letter of clarification states that the half section should have been constructed concurrently with the development of the Parc Dulles community (immediately north of the subject site – attachment A-4). A 4-lane extension of Haleybird Drive needs to be constructed with this application to Ridgetop Circle in order to complete the surrounding road network.

16. **A commitment to transit funding should be provided.** Staff has recommended a transit contribution of \$575 per dwelling unit (total contribution of \$255,875) in order to facilitate transit services in the vicinity of the subject site. The applicant will provide a contribution of \$575 per unit to facilitate transit services only if the transit center proposed in the Dulles Town Center application is denied. Staff maintains that the Dulles Town Center application is a separate proposal that has no bearing on transit contributions for this case.
17. **The Special Exception requests should be removed from the application (approval of a fire and rescue station site and office uses in excess of 20% of the commercial floor area).** Staff has recommended the withdrawal of the fire and rescue station request based on site size, development constraints, and access concerns. The County has recently approved a 5-acre fire and rescue site in conjunction with the Kincora rezoning which would negate the need for the site at this location.

The applicant is requesting a Special Exception to allow office uses in excess of 20% of the commercial floor area. The Concept Plan and proffers cap commercial development at 100,000 square feet (.18 FAR). Up to 75,000 square feet (75% of the site) can be developed with office uses and up to 60,000 square feet (60 % of the site) can be developed with other permitted PD-CC-CC uses (17,000 square feet will be available for the public use site). The proffers do not require the development of either office or commercial uses at this location.

The purpose of the PD-CC-CC zoning district is to serve the retail shopping needs of the surrounding community. Office uses should not be the predominate use in this district. Staff does not support the Special Exception request since the proposal does not meet the purpose and intent of a PD-CC-CC district. The application should be revised to rezone the southern portion of the property to a PD-OP (Office) designation in order to develop office uses in compliance with planned land use policies.

18. **A commitment to provide a one-time contribution of \$.10 / square foot of SPEX use should be provided.** The applicant has proffered a fire and rescue contribution of \$120.00 / residential unit and \$.10 / square foot of non-residential development. An additional one-time contribution of \$.10 / square foot of Special Exception use is also anticipated by Board policy.

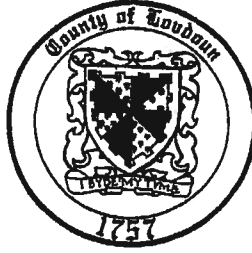
19. **The Revised 1993 Zoning Ordinance specifies that a proposal should be consistent with the Comprehensive Plan.** The Revised 1993 Zoning Ordinance, Section 3-701 (Purpose) specifies that R-24 districts shall be mapped in locations designated primarily for infill development or in other locations consistent with the Comprehensive Plan. Section 4-201 (Purpose) of the Revised 1993 Zoning Ordinance, specifies that Commercial Centers (PD-CC) shall be located in areas consistent with the Comprehensive Plan. The proposed rezoning to R-24 and PD-CC-CC is not consistent with the land use policies of the Comprehensive Plan since the application proposes high-density residential and community-serving commercial uses.
20. **The application does not meet the purpose and intent of a PD-CC-CC (Commercial Center – Community Center) zoning district.** The applicant amended the application to increase the amount of potential office development from 23,400 square feet to 75,000 square feet (maximum of 100,000 square feet of commercial development proposed). This potentially increases the amount of office in the PD-CC-CC district from 23% to 75%. This is not consistent with the purpose of the PD-CC-CC district, which is to serve the retail shopping needs of the surrounding community. Office uses should not be the predominate use in a PD-CC-CC district. If the applicant intends to develop significant amounts of office space, the appropriate district is PD-OP (Office Park), which would allow a predominant office development and would be in conformance with Keynote Employment policies.
21. **Public road access should be provided to accommodate the proposed mix of uses (residential and community-serving commercial).** The development would be served by private streets, including the main spine road that connects the commercial and residential components. Staff has consistently recommended that the main spine road should be public. The PD-CC-CC regulations, Section 4-206 (D) of the Revised 1993 Zoning Ordinance state that vehicular access to commercial centers shall be provided on collector roads, which, by definition, are publicly owned and maintained. This section also specifies that primary access to commercial areas shall be prohibited on residential neighborhood streets. The site layout proposes a continuous, 2-lane private street that connects directly from the commercial component to the residential component. The applicant has stated that private streets are needed to accommodate certain design aspects (such as reduced setbacks).
22. **Staff does not support the zoning modification requests.** The applicant is requesting 2 modifications: to reduce the yard for buildings, parking, areas for collection of refuse and loading areas from 100 feet to 50 feet between the commercial and residential components and to allow private access ways to serve the development instead of the required public roads.
23. **The residential conversion of Keynote Employment area exacerbates school capacity issues.** Potomac Falls High School has exceeded capacity. Countryside Elementary and River Bend Middle Schools are close to capacity.

SUGGESTED MOTIONS

1. I move that the Planning Commission forward ZMAP 2002-0017, SPEX 2008-0026 and SPEX 2008-0027, Parc Dulles II, to an additional work session for further discussion. OR
2. I move that the Planning Commission forward ZMAP 2002-0017, SPEX 2008-0026 and SPEX 2008-0027, Parc Dulles II, to the Board of Supervisors with a recommendation of denial based on the attached Findings. OR
3. I move that the Planning Commission forward ZMAP 2002-0017, SPEX 2008-0026 and SPEX 2008-0027, Parc Dulles II, including the proffers dated October 15, 2009, to the Board of Supervisors with a recommendation of approval.

Attachments:

1. Planning Commission staff report dated November 19, 2010
2. Draft Proffers dated October 15, 2009
3. Findings for Denial
4. Copy Tests / Letter of Clarification dated December 16, 1991 - Haleybird Drive
5. Rezoning Plat



DEPARTMENT OF PLANNING
STAFF REPORT

PLANNING COMMISSION PUBLIC HEARING

DATE OF HEARING: November 19, 2009

ZMAP 2002-0017, SPEX 2008-0026 & SPEX 2008-0027 – Parc Dulles II

DECISION DEADLINE: January 29, 2010

ELECTION DISTRICT: Potomac

PROJECT PLANNER: Ginny Rowen

EXECUTIVE SUMMARY

DTC Partners LLC of Bethesda, Maryland has submitted an application to rezone approximately 34.1 acres from the PD-IP (Planned Development - Industrial Park) district to the PD-CC-CC (Planned Development - Commercial Center - Community Center) and R-24 (Multifamily Residential) zoning districts to develop up to 117,000 square feet of commercial uses (.2 FAR) and 445 multifamily units (including 28 ADUs) at 20.5 dwelling units per acre. The property is located within the Route 28 Taxing District and is subject to the Revised 1993 Zoning Ordinance. The applicant has also submitted two Special Exception applications: to permit a fire and rescue station in a PD-CC-CC district and to allow the development of office uses in excess of 20 percent of the total commercial square footage. The applicant is requesting Zoning Ordinance modifications to reduce a required yard from 100 feet to 50 feet adjacent to a residential district and to allow access to the commercial component from a private street instead of a collector road. The property is located on the northeast corner of Nokes Boulevard and City Center Boulevard and is adjacent to the Dulles Town Center development. The area is governed by the policies of the Revised General Plan (Suburban Policy Area (Sterling Community)), the Countywide Retail Policy Plan, the Heritage Preservation Plan, the 2001 Countywide Transportation Plan, and the Bicycle and Pedestrian Mobility Plan, which designate this area for Keynote Employment and which allow office development up to a FAR of 1.0.

RECOMMENDATION

Staff recommends denial of the application based on the following issues:

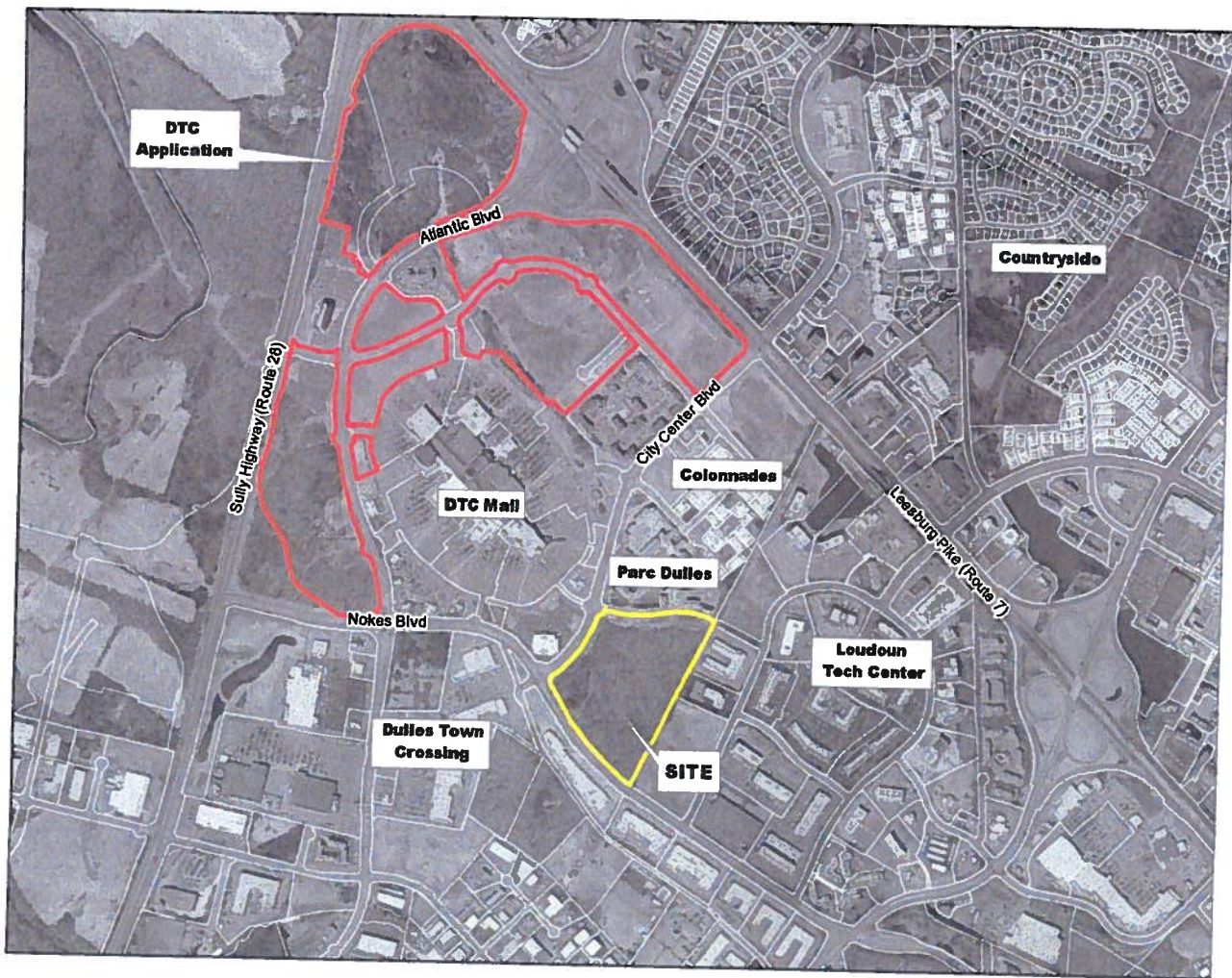
- non-compliance with land use policies;
- non-compliance with Board policies related to residential conversions in Keynote Employment areas;
- transportation impacts have not been mitigated;
- economic development impacts have not been mitigated;
- zoning impacts have not been mitigated;
- school impacts have not been mitigated;
- capital facilities impacts have not been mitigated.

Attachment 1

SUGGESTED MOTIONS

1. I move that the Planning Commission forward ZMAP 2002-0017, SPEX 2008-0026 and SPEX 2008-0027, Parc Dulles II, to the Board of Supervisors with a recommendation of denial based on the Findings contained in the staff report. OR
2. I move that the Planning Commission forward ZMAP 2002-0017, SPEX 2008-0026 and SPEX 2008-0027, Parc Dulles II, to a Work Session for further discussion. OR
3. I move that the Planning Commission forward ZMAP 2002-0017, SPEX 2008-0026 and SPEX 2008-0027, Parc Dulles II, including the proffers dated October 15, 2009, to the Board of Supervisors with a recommendation of approval.

VICINITY MAP



Directions: From Leesburg, proceed east on Route 7 to City Center Boulevard (across from the Countryside community). Make a right onto City Center Boulevard and proceed south to the subject site on the left. The property is on the northeast corner of City Center Boulevard and Nokes Boulevard.

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I. APPLICATION INFORMATION

APPLICANT	DTC Partners LLC Lerner Companies 11501 Huff Court Bethesda, MD 20895
REPRESENTATIVE	Reed Smith LLP Ann E. Goode, AICP 44084 Riverside Parkway, Suite 300 Leesburg, VA 20176
APPLICANT'S REQUEST	Rezone approximately 34.1 acres from PD-IP (Industrial Park) to R-24 (Multifamily Residential) and PD-CC-CC (Commercial Center – Community Center) to allow 445 multifamily units and up to 117,000 square feet of commercial development. Two Special Exception requests are proposed - to allow a potential fire and rescue site and to allow the development of office uses in excess of 20 percent of the total commercial square footage.
LOCATION	The subject site is located on the northeast corner of City Center Boulevard and Nokes Boulevard.
TAX MAP/PARCEL #s	Portion of Tax Map 80 Parcel 102 (PIN# 029-37-6224)
ZONING	PD-IP
ACREAGE OF SITE	34.1 acres
SURROUNDING ZONING / LAND USES	

	ZONING	PRESENT LAND USES
North	R-16 (Residential)	Multifamily (Parc Dulles)
South	PD-IP (Industrial)	Office, Flex Industrial
East	PD-IP (Industrial)	Undeveloped, Office, Industrial (Loudoun Tech Center)
West	PD-CH (Commercial)	Retail (Dulles Town Center Mall)

II. SUMMARY OF DISCUSSION

Topic Area	Issues Reviewed and Status
Comprehensive Plan	<ul style="list-style-type: none"> • Conformance with RGP policies for Keynote Employment. Status: Unresolved; Applicant proposing 445 multifamily units and 117,000 sq. ft. community-serving commercial. • BOS resolution prohibits residential conversions in Keynote Employment areas. Status: Unresolved; Applicant proposing 445 multifamily units. • Buy out of the Route 28 Tax District. Status: Unresolved. A buy-out is needed to ensure no loss of revenue to the tax district from the conversion to residential use. The value of the buy-out is being calculated by Management and Financial Services. • Capital Facilities Contribution of \$9,907,086 is anticipated. Status: Unresolved. A capital facilities contribution of \$4,866,965 is not consistent with the anticipated contribution for multifamily development. • Site design. Status: Unresolved: Additional design guidelines needed. • Construction of 10 foot wide, shared-use path along Nokes Boulevard and City Center Boulevard. Status: Unresolved. 5 foot wide sidewalks depicted along both road frontages. • Provision of unmet housing needs. Status: Unresolved; No commitments provided. • Provision of civic / open space. Status: Unresolved; Proposal does not meet Plan policies. • Escalation of contributions tied to the CPI. Status: Unresolved; sub-standard escalation clause proposed.
Zoning	<ul style="list-style-type: none"> • Sections 3-701 & 4-201 of the <u>Revised 1993 ZO</u> call for consistency with land use policies of Comprehensive Plan. Status: Unresolved; Application proposes residential and community-serving commercial in area designated as Keynote. • Purpose of PD-CC-CC district. Status: Unresolved; proposal does not meet purpose of PD-CC-CC district. • Public road access to serve site development. Status: Unresolved; Applicant proposing private roads throughout development. • Zoning modifications. Status: Unresolved; Requests do not exceed the public purpose of the regulations.

Economic Development	<ul style="list-style-type: none"> Residential conversion of commercial property. Status: Unresolved; Applicant proposing residential conversion of Keynote Employment. Site suited for commercial development based on existing / planned uses. Status: Unresolved; Residential conversion proposed. Development phasing / linkage. Status: Unresolved; Applicant proposing development of 90% residential with 14% commercial.
Transportation	<ul style="list-style-type: none"> Extend Haleybird Dr. to Ridgetop Circle. Status: Unresolved; Applicant should construct 4-lane extension of Haleybird Dr. with this application. Full funding for signals. Status: Unresolved; Cash equivalency needed for future traffic signals. Transit contribution. Status: Unresolved; Applicant providing transit contribution only if DTC application denied.
Fire & Rescue	<ul style="list-style-type: none"> Potential fire & rescue site on property. Status: Unresolved; 3.3 acre fire & rescue site depicted on CDP and SPEX Plat. County cannot commit to specific site layout / access shown at this time. A fire and rescue contribution of \$120.00 per residential dwelling unit and \$0.10 per square foot of non-residential development. A contribution of \$.10 /sf of SPEX use not provided. Status: Unresolved; Proffers do not provide anticipated SPEX contribution.
Schools	<ul style="list-style-type: none"> Student enrollment at Potomac Falls HS. Status: Unresolved; capacity exceeded based on adopted School Board boundaries.
Environmental Review Team	<ul style="list-style-type: none"> Commitments to Stream Valley Plan (sheet 8 – CDP). Status: Unresolved; Stream Valley Plan (re-vegetation, tree conservation, stream corridor preservation) tied to approval of DTC application. Stormwater management commitment for the public use site at time of construction. Status: Unresolved; Applicant providing permanent stormwater management facilities when residential constructed.

Applicable Policy or Ordinance Section
<u>Revised General Plan, Bicycle /Pedestrian Plan, Heritage Preservation Plan, Countywide Retail Plan</u> RGP: Chap.3-Fiscal Planning & Budgeting #1, 2, 3, 8, Chap. 5-Steep Slopes #1, 3, Forest, Tree, and Veg. # 1, 3, Surface Groundwater #2, River & Stream Corr. #11, 23, Historic & Archeological Res. #11, Highway Noise #2, Chap.6- Res. #3, High Den. Res. # 1, 2, 3, 5, Open Space text, # 1, 9, Land Use Pattern & Des. # 3, 6, Urban Center #1, 4, 8, Sub. Policy Area Land Use Matrix, Keynote Employment Centers text, Chap. 4-Bus. Land Use & Corridor Dev. text, Chap. 11-Open Space # 3,Urban Center Design Guidelines, Countywide Housing # 1, 4, Preservation Plan: Chap. 2-Archeological Resources #9, Bike/Ped: Policy 2, Major Roads & Connecting Corridors # 1, Retail Plan: Policy A-4
<u>2001 Revised Countywide Transportation Plan (CTP)</u>
<u>Revised 1993 Zoning Ordinance – PD-CC-CC (Section 4-200), R-24 (Section 3-700)</u>

III. FINDINGS

1. The proposal does not conform to the land use policies of the Revised General Plan, which call for Keynote Employment development in this area. Residential uses are not permitted in areas designated as Keynote Employment.
2. The proposal does not conform to the Board resolution dated April 17, 1996, prohibiting residential conversions of properties in Keynote Employment areas.
3. In accordance with Revised General Plan policies, residential conversions are not permitted in the Route 28 Tax District except in specific locations.
4. The proposal reduces the amount of land available for employment and/or industrial development.
5. The application does not mitigate economic development concerns related to fiscal impacts, phasing / linkage between commercial and residential components, and the development of minimum densities.
6. The application does not mitigate transportation impacts regarding cash equivalencies for future traffic signals, and contributions for transit services.
7. The application does not mitigate capital facilities impacts since the application does not provide a contribution amount consistent with Board policies.
8. Schools serving the subject site are over capacity or close to capacity.

IV. CONDITIONS OF APPROVAL – Public Use Site (Fire & Rescue Station - SPEX 2008-0026)

Conditions of approval have not been provided for the development of a fire and rescue station since the County cannot commit to the specific layout / parking / access points identified on the Special Exception plat (sheet 6) Parc Dulles II at Dulles Town Center, dated March 2008, revised through October 15, 2009, prepared by Dewberry. Staff recommended that the applicant withdraw the Special Exception request; however, the applicant has continued to pursue it.

CONDITIONS OF APPROVAL – Office (SPEX 2008-0027) – November 19, 2009

If the Planning Commission recommends approval of the Special Exception to allow office in excess of 20% of the PD-CC-CC floor area, staff recommends the following conditions of approval:

1. **Substantial Conformance** – Office uses in excess of 20% of the PD-CC-CC district square footage area shall be developed in substantial conformance with Sheet 7 of 8 of Parc Dulles II at Dulles Town Center dated March 2008, revised through October 15, 2009, prepared by Dewberry. Approval of this application shall not relieve the Property from complying with and conform to any other Zoning Ordinance, Codified Ordinance, or applicable regulatory requirement.

2. **Exterior Lighting** – Any exterior lighting installed on the Property shall be full cutoff and fully shielded light fixtures as defined by the Illuminating Engineering Society of North America (IESNA). Light shall be directed inward and downward toward the interior of the property, away from nearby properties. The Applicant shall power down all exterior lights on the Property excluding security lights when the buildings are closed.

Note: The applicant has agreed to contribute \$.10 per square foot of non-residential development and \$120 per unit to the servicing Fire and Rescue Company prior to zoning permit issuance. The contribution shall be divided equally for fire and rescue services. **The applicant has not agreed to escalate contributions based on the Consumer Price Index for all urban consumers (CPI-U), for the Washington-Baltimore area (base year of 1988) in accordance with Board policy.**

V. PROJECT REVIEW

A. CONTEXT

On April 3, 2008, the County accepted an application to rezone 34.1 acres from PD-IP (Planned Development – Industrial) under the 1993 Zoning Ordinance to PD-CC-CC (Planned Development – Commercial Center – Community Center) and R-24 (Multifamily Residential) to develop up to 117,000 square feet of commercial uses (including a potential fire & rescue site) and 445 multifamily units under the Revised 1993 Zoning Ordinance. Special exceptions are proposed for two uses in the PD-CC(CC) district, including a fire and rescue station and office uses (administrative, business, professional, medical and dental) in excess of 20% of the total floor area in the PD-CC-CC district. The subject site is located on the northeast corner of City Center Boulevard and Nokes Boulevard.

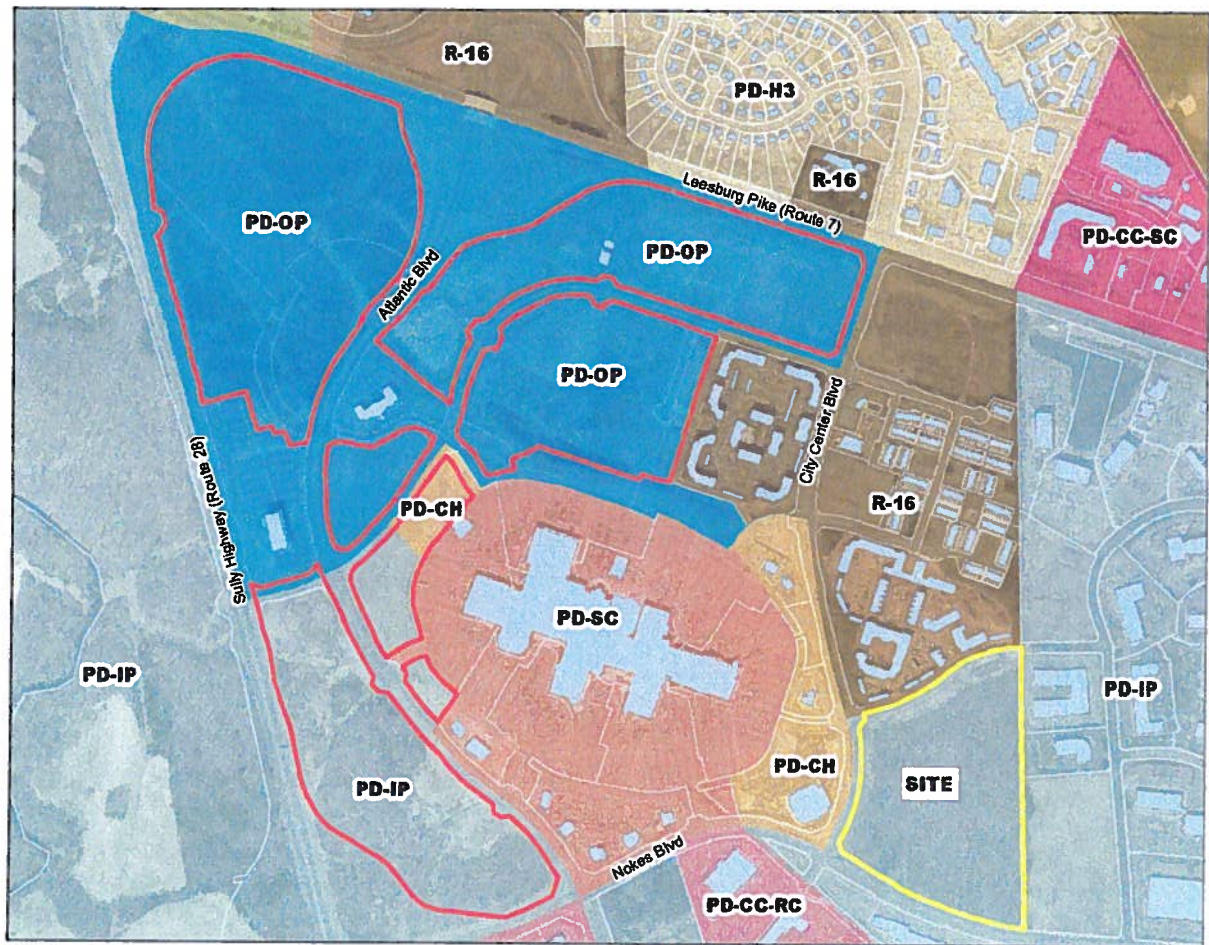
The original rezoning application for the subject site was submitted in 2002 and requested the development of 599 multifamily units. The application was heard by the Planning Commission on May 17, 2004. Staff cited major concerns regarding land use, economic development impacts, school impacts, and capital facilities impacts and recommended denial of the application. The Planning Commission recommended that the project be considered in relation to an overall master plan for Dulles Town Center, which was not developed at that time. Since the original submission, the applicant has proceeded with planning efforts for the overall property by submitting land development applications for vacant portions of Dulles Town Center (ZMAP 2007-0001 and ZCPA 2007-0001) located northwest of the subject site. These applications are currently under Planning Commission review.

In April, 2008, the applicant revised the rezoning application and re-submitted the proposal for staff review (including two new Special Exception requests). Although this property is not part of the overall Dulles Town Center concept plan and is not subject to the associated proffers, there are two approved Special Exception applications that apply to the property (SPEX 82-26 and SPEX 1990-0071), which allow the development of up to 40 percent office use and flex-industrial development on the site.

Dulles Town Center was approved pursuant to ZMAP 1986-0053, known as Windmill Mall, and ZMAP 1990-0014, Dulles Town Center. ZMAP 1986-0053, was approved by the Board of Supervisors in November, 1987, and rezoned 110 acres from PD-IP to PD-SC (Planned

Development – Shopping Center) and allowed for the construction of a 1.2 million square foot regional shopping center.

ZMAP 1990-0014 was approved by the Board of Supervisors in December, 1991, and allowed a mix of uses including 3.3 million square feet of office, approximately 300,000 square feet of commercial, 1.5 million square feet of industrial, and 1,068 residential units. An existing office building (Harris Building), the Courtyard by Marriott Hotel, the Remington and Parc Dulles apartment communities, the Colonnades (townhouses), and many of the retail pad sites located around Dulles Town Circle were developed in conjunction with this application. (See surrounding zoning map below.)



B. SUMMARY OF OUTSTANDING ISSUES

Outstanding issues include the following:

LAND USE

1. The Revised General Plan designates the site for Keynote Employment, which prohibits residential development. The applicant is requesting to convert 22 acres from PD-IP to R-24 to develop 445 multifamily units and 12 acres to PD-CC-CC to develop community-serving retail / office uses.

CIVIC / OPEN SPACE

2. The Plan Calls for 10% civic and 30% open space in high-density residential communities. If the proposed fire & rescue site (considered a civic use) is not developed, the application will not meet the civic component required in residential communities. The applicant's proposed open space areas need to be redesigned and relocated.

DESIGN

3. Additional design guidelines needed. Staff recommends additional design commitments including architectural design elements, a variety of building types, streetscape elements, specific open space amenities, appropriate screening, etc.

PHASING / FISCAL IMPACT

4. Stronger commitment linking office / commercial development to residential development needed. The applicant is currently proposing to develop approximately 90% of the residential units with 14 % of the commercial development.
5. Provide a capital facilities contribution consistent with Board policies adopted in July, 2009. The proffered commitment to capital facilities is \$10,937 per unit; the anticipated commitment should be \$ 23,758 per market rate unit.
6. Escalation clause for contributions tied to the Consumer Price Index. The applicant is proposing a sub-standard escalation factor for cash contributions.
7. A buy-out of the residential uses located within the Route 28 Tax District. The specific buy-out value will be calculated by the Department of Management and Financial Services for Board of Supervisors consideration.

SHARED-USE TRAILS

8. Shared-use trails along City Center Boulevard and Nokes Boulevard should be constructed to a minimum width of ten-feet. Concept Plan depicts five foot wide sidewalks along both road frontages.

UNMET HOUSING NEEDS

9. Board policy anticipates residential applications will include provisions for unmet housing needs across a broad segment of the County's income spectrum from 0 – 100% of the Area Median Income (AMI). The application does not provide any commitments except for the required 28 Affordable Dwelling Units (ADUs).

ENVIRONMENTAL

10. Implementation of the Stream Valley Plan. Notes on the Concept Plan (sheet 8-general note 3) require the approval of the Dulles Town Center rezoning (ZMAP 2007-0001) to implement the Stream Valley Plan for the subject site.

11. Stormwater Management facilities for the public use site. The applicant is currently proffering to construct stormwater management facilities when the adjacent residential component is developed.

TRANSPORTATION

12. Extension of Haleybird Drive. The applicant should construct a 4-lane extension of Haleybird Drive from the subject site east to Ridgetop Circle (Loudoun Tech Center).
13. Cash equivalency for future signals. The applicant has proffered to provide traffic signals at the intersection of Haleybird Drive/ City Center Boulevard and the Nokes Boulevard entrance. If warrants are not met, the applicant should provide a cash equivalency to pay for the installation of traffic signals in the future.
14. Transit funding should be provided. The applicant will provide a contribution of \$575 per unit to facilitate transit services only if the transit center proposed in the Dulles Town Center application is denied.

PUBLIC USE SITE

15. Fire & Rescue site (SPEX 2008-0026) requested in conjunction with the rezoning. Request for Special Exception approval is premature since the County cannot commit to the site layout / access depicted on the SPEX plat. The 3.3 acre site does not conform to County standards for these types of facilities (5 acres recommended).

PUBLIC SCHOOLS

16. School capacity issues. Potomac Falls High School has exceeded capacity. Countryside Elementary and River Bend Middle Schools are close to capacity.

ZONING

17. Public road access should be provided to accommodate the proposed mix of on-site uses (residential and community-serving commercial). The applicant is proposing that all roads will be private.

MODIFICATIONS

18. Staff does not support the requested Zoning Ordinance modifications. The modifications do not exceed the public purpose of the regulations.

B. OVERALL ANALYSIS

On February 3, 2009, the Board of Supervisors initiated a Comprehensive Plan Amendment (CPAM 2009-0001, Route 28 Keynote Employment Policies) to assess the viability of the Keynote Employment policies of the Revised General Plan specifically as they relate to the Route 28 policies in Chapter 4 "Economic Development" and Chapter 6 "Suburban Policy Area". The CPAM will consider retaining or changing policies within a specific Keynote area. The CPAM area is defined as the Route 28 corridor from Route 7 (north) to the Fairfax County line (south), between Atlantic

Boulevard (east) and Broad Run (west). The Parc Dulles II site, which is located east of Atlantic Boulevard, is not situated within the CPAM area.

COMPREHENSIVE PLAN

The subject property is located in the Sterling Community of the Suburban Policy Area near two of the County's premier business corridors – Route 7 (Harry Byrd Highway) and Route 28. The County targets properties, including the subject site, along Route 7, Route 28, and the Dulles Greenway for Keynote Employment development in order to promote economic development in these crucial business corridors.

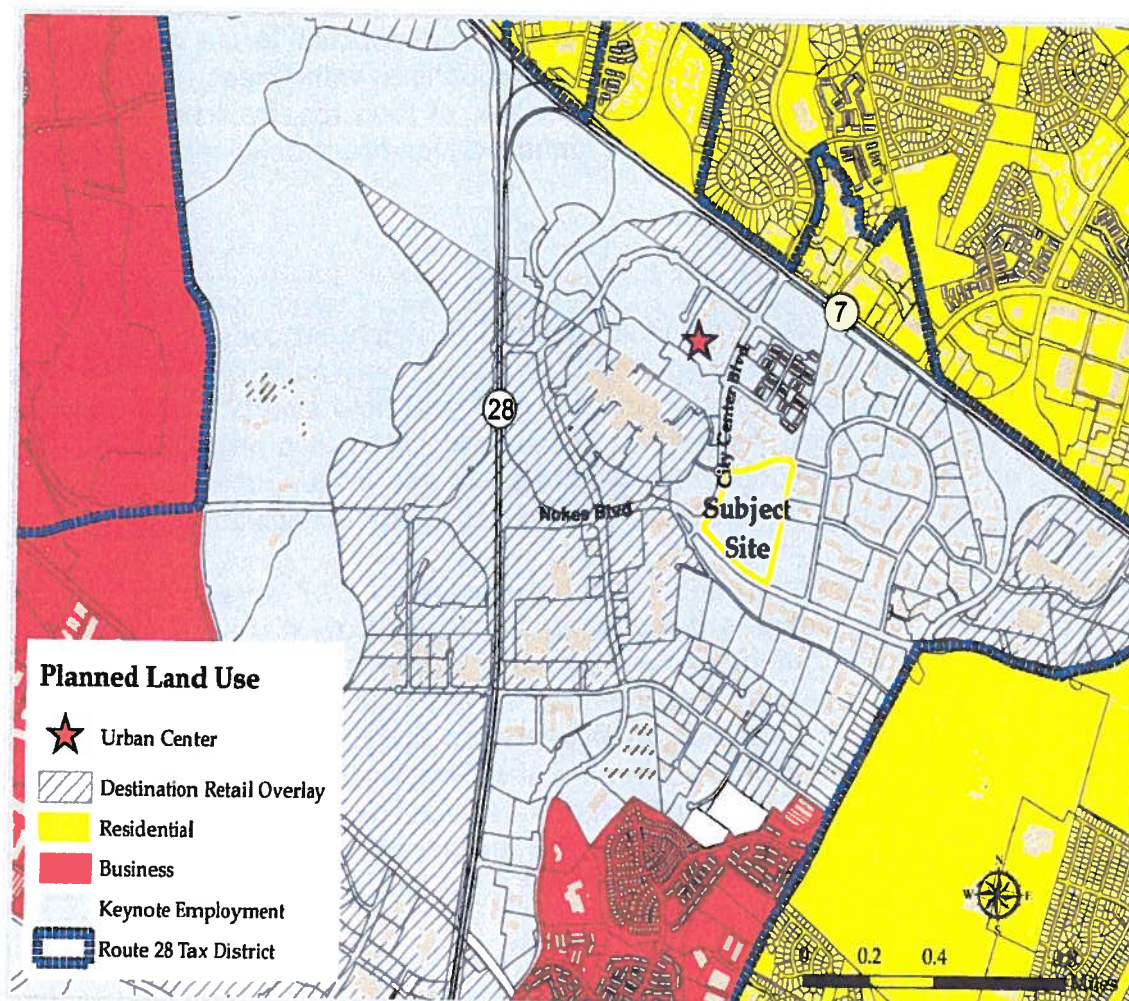
Land Use

Areas designated as Keynote Employment are intended to be developed as premier office or research and development supported by ancillary retail and personal services for the employees. They include office parks, research and development parks, corporate headquarters, and similar uses of a large scale that range in intensity from 0.40 to 1.0 FAR (Floor Area Ratio). Residential uses are not anticipated in Keynote Employment areas.

On April 17, 1996, the Board of Supervisors adopted a resolution that prohibits the residential conversion of areas designated as Keynote Employment. The resolution noted that residential conversions defeat the Board's economic development goals for these crucial employment corridors (see attachment A-43a).

The applicant's proposal to develop residential uses on the subject site does not comply with Revised General Plan policies governing properties within the Route 28 Tax District. The Tax District was formed in 1987 to finance large transportation improvements, such as grade-separated interchanges, within the Route 28 corridor in Loudoun and Fairfax Counties. The Plan states that the County supports and is committed to the continuing growth of an economically vibrant Route 28 Tax District, both for the District's contribution to the transportation improvements to Route 28 and to the economy of the County. Residential development within the Tax District is limited by Plan policy to the Old Sterling Planning Area, the Oak Grove area, the Eden Tract and Loudoun Village properties as well as areas designated for high-density residential on the Planned Land Use Map (i.e., Victoria Station and Pearson Reserve). The subject site is not located within one of the areas where residential development is permitted. Residential conversions, as proposed in this application, reduce the potential for industrial / business growth in the Tax District. (See planned land use map next page.)

The Revised General Plan anticipates the development of an intensive, large-scale, mixed-use Urban Center in the southeast quadrant of the Route 7/Route 28 interchange which is intended to evolve from the current shopping / mixed-use center. The Urban Center, which is designated by a star on the Land Use map, is envisioned to be between 50 and 90 acres in size, including residential and non-residential uses that are vertically integrated, featuring well-configured squares and greens, a traditional network of landscaped streets, a rectilinear pattern of small blocks, and civic buildings that act as landmarks of the community.



The applicant has suggested that this proposal should be evaluated under the Urban Center policies instead of the Keynote Employment policies. The Revised General Plan does not intend that the entire 554 acre Dulles Town Center property will evolve into an Urban Center; instead, Plan policies limit the size of an Urban Center from 50 to 90 acres in order to achieve the development of a compact, pedestrian-oriented, and vertically integrated community. The applicant in the Dulles Town Center application (ZMAP 2007-0001 & ZCPA 2007-0001) has defined a specific area of the Dulles Town Center property in which the Urban Center will develop (Land Bays TC-1, TC-2, and TC-3).

The subject site is not adjacent to this area nor is the proposal in this application a logical extension of the proposed Urban Center. The single-use residential buildings that are proposed as the dominant type of development do not advance the Plan's vision of an Urban Center. Staff also notes that although the subject property is situated adjacent to existing residential development to the north (Parc Dulles), it is surrounded on three sides by non-residential development: the Cornerstone at Loudoun Tech Center immediately to the east (planned for three office buildings totaling 235,000 square feet), the Corporate Office Park at Dulles Town Center to the south, and the

existing destination retail development in the Dulles Town Center mall to the west. Developing the subject site as Keynote Employment would be compatible with these existing / approved surrounding uses and would be the most appropriate use of the property. In addition to the major land use concerns with the application, staff has identified significant deficiencies concerning other aspects of the proposal.

Civic / Open Space

The Revised General Plan calls for high-density residential neighborhoods to provide 10 percent (2.1 acres) of the gross acreage as civic space. Civic spaces play an important role in residential neighborhoods by providing a place for residents to meet and hold events. They contribute to the community's identity and aesthetics. As defined in the Plan, civic uses are "public or quasi-public institutional uses... and typically include small churches, fire and rescue facilities, schools, day care centers, group homes, community centers, post offices, and community clubhouses".

The applicant is proposing to develop 445 multifamily units on 21.7 acres at a density of 20.5 dwelling units per acre. The applicant is designating a 3.3 acre potential fire and rescue site and 8,000 square foot clubhouse / community center as the civic component for the development. Staff has cited significant concerns regarding the potential fire and rescue site since the County cannot commit to the specific site layout / site access depicted on the Special Exception Plat (sheet 6). Staff had recommended that the applicant withdraw the Special Exception request for a fire and rescue site at this location; however, the applicant has decided to pursue the request. If the County chooses not to accept this particular site for a fire and rescue station, the applicant is proposing to limit development of the site to a park. A park does not meet the definition of a civic use; therefore, the application would be deficient in civic space.

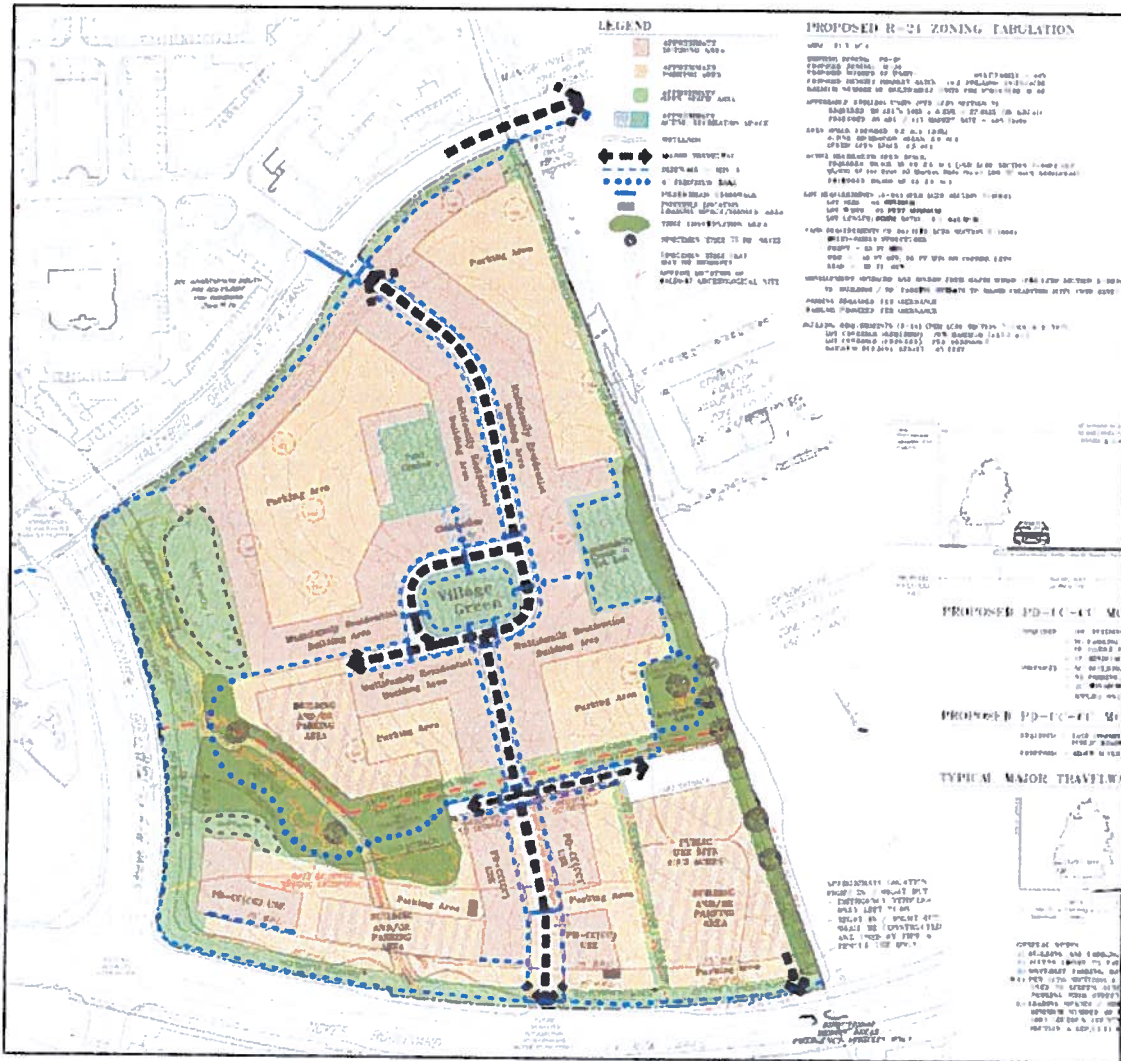
Revised General Plan policies state that high-density residential neighborhoods will fully incorporate open space at a minimum of 30 percent of the gross acreage of the property, totaling 6.5 acres for the subject site. The Plan recognizes that the provision of open space is critical in high-density residential neighborhoods because of the greater concentration of residents. Open space can include a variety of passive and active open space, including woods, wetlands, wet ponds, neighborhood and community parks, community gardens, athletic fields, tot lots, hiking and biking trails, streetscape areas, and other natural or man-made features that function as amenities. Open space policies state that 75 percent of the required open space should consist of interior open space. Perimeter buffers and leftover spaces can only account for 25% of the open space requirement. In order for this project to comply with these policies, at least 4.8 acres should be internal usable open space.

According to the Rezoning Plat and Circulation Plan (Sheet 4- see next page), the project includes 6.5 acres of open space within the residential component. The proposed open space within the project includes a village green, a community green and tot lot, an archaeological preserve, a Tree Conservation Area (TCA) surrounding the riparian corridor, a stormwater management facility adjacent to City Center Boulevard and the perimeter buffers.

Staff maintains that all of the open space depicted on the Plat cannot be used to fulfill the open space requirements identified in the Plan. Plan policies specify that pocket parks, landscaped gardens, and community greens must be at least 2,500 square feet in size to count as open space.

**ZMAP 2002-0017, SPEX 2008-0026, SPEX 2008-0027 PARC DULLES II
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Plan policies also state that stormwater management facilities cannot be included as open space features unless they are wet year-round (now proffered) and include amenities (such as gazebos, picnic areas, walking paths, or seating – not provided). Additional information is also requested to determine if the project provides sufficient internal open space. The illustrative plan (Sheet 5) shows residential buildings surrounding the community green & tot lot along the site's eastern boundary with Loudoun Tech Center. This area does not appear to meet the Plan's definition of internal open space since it will mainly serve the residents living in the surrounding buildings and appears to be isolated from the rest of the community. The development contains inadequate internal open space.



Additional Design Commitments

The applicant has proffered to design and construct the residential component with a combination of architectural design and materials found generally in better quality luxury residential developments (such as Parc Dulles). Additional commitments include pedestrian-scale lighting and benches in active recreation spaces. Staff recommends additional design commitments, such as a variety of building types and acceptable building materials, architectural design elements, streetscape elements (such as benches, fountains, etc.), specific amenities in open space areas

(such as benches, seating, gazebos, picnic areas, etc.), screening of trash collection areas, and screening of rooftop mechanical equipment that will ensure the development of a high-quality development.

Fiscal Impacts

Phasing

A central objective of the Revised General Plan is to balance business and residential development to promote an effective fiscal policy. The Plan calls for mixed-use projects to provide a development phasing plan that establishes a build-out relationship between the residential and non-residential components.

Approximately 36% of the overall site (12.4 of the total 34.1 acres) is proposed to be rezoned to a PD-CC-CC (Planned Development – Community Center - Commercial Center) zoning district to permit the development of up to 117,000 square feet of non-residential uses (.2 FAR). A Special Exception (SPEX 2008-0027) has been submitted to allow office square footage in excess of 20% of the commercial floor area. The draft proffers currently propose up to 75,000 square feet of office development on the site. However, the application does not actually require the development of any office. The draft proffers (Proffer I.A.2) state that the property will be developed with up to 117,000 square feet (including the 17,000 square foot fire and rescue site) of uses permitted in the PD-CC-CC zoning district (up to 60,000 square feet of retail and/ or up to 75,000 square feet of office with a maximum development of 100,000 square feet are proposed). If the application is approved as proposed, the applicant will have the option of developing the site in accordance with the office Special Exception or not. There are no assurances that any office will actually be developed on the site. The proffers currently state that 400 units (89 percent of the units) could be built if 14,000 square feet (14 percent) of the commercial component is constructed.

Given the site's Keynote Employment designation, the applicant should commit to developing the full amount of office square footage proposed in the Special Exception. This could be accomplished by committing to a more balanced phasing plan that ensures the concurrent development of the non-residential and residential components.

Capital Facilities Contributions

Under the Revised General Plan, all residential rezoning requests will be evaluated in accordance with the capital facility policies of the Plan. Staff has calculated capital facility impacts for the proposed development including the costs associated with the provision of safety, government, recreation, and education services, etc. based on the most recent submission materials. The County assumes responsibility for capital facilities impacts up to the base density, which is 0 du/acre based on the site's industrial zoning (PD-IP). In accordance with Board policies adopted in July, 2009, a capital facilities contribution of \$23,578 per market rate multi-family unit, (total of \$9,907,086) is anticipated (attachment A-7).

The proffers (Proffer VI.A.) state that the applicant will pay \$10,937 per dwelling unit for a total contribution of \$4,866,965 if the project is built out. The total proposed contribution is significantly less than the anticipated contribution amount. The applicant maintains that the most recently

adopted capital facilities amount should not apply to this application, since the proposal was originally submitted and heard by the Planning Commission in 2004. Staff maintains that the most recently adopted numbers should apply since this is a completely new land development proposal that has required substantial County review.

Staff notes that County policies allow for a capital facilities credit for land that is dedicated to the County (in this case, a 3.3 acre public use site). An appraisal of the property to be dedicated is required to be submitted for staff review to determine the actual amount of the credit. The applicant has not submitted the appraisal; therefore, the amount of the capital facilities credit is unknown at this time.

Cash Contribution Escalation Clause

Revised General Plan policies call for the escalation of cash contributions in accordance with the Consumer Price Index (CPI) in order to maintain an equivalent contribution in the future. Proffer VI.D. states that cash contributions for transit services and capital facilities shall escalate by 2% every five years from the time of the zoning approval. The applicant's proposed escalation clause does not guarantee an equivalent contribution amount for future development.

Route 28 Buy-Out

Property owners within the Route 28 Tax District that convert commercial or industrial properties to residential uses have on several occasions been allowed to buy-out of the District through a one-time payment that is calculated using a formula agreed upon by Loudoun and Fairfax Counties, the Route 28 District Commission, and the Route 28 Tax District Advisory Board. The payment represents the present value of the special improvements taxes estimated by the County to be lost as a result of the residential conversion. The draft proffers (Proffer VII) include a commitment to provide this payment. The specific amount will be calculated by County staff to coincide with Board of Supervisors action to ensure the most current number is used.

ECONOMIC DEVELOPMENT

The removal of commercial land from the County's inventory is a concern given the long-term need to have an adequate supply of commercial/industrial land as well as the fiscal impact of converting non-residential property to a residential use. Removal of land from the Route 28 Tax District is a serious concern and negatively impacts the overall district. In general, residential development has a negative fiscal impact to the County, while non-residential development has a positive fiscal impact.

This site appears to be much more suited for office and/or flex development, rather than residential development. The existing regional road network, consisting of two major collectors (City Center and Nokes Boulevards) would support office and/or flex industrial development similar to adjacent development to the south and east. The subject site is separated from commercial development in Dulles Town Center by City Center Boulevard, a major collector road, which limits connectivity for potential residents. The location of the proposed residential conversion may also have a negative impact on the adjacent industrial park to the east (Loudoun Tech Center). Loudoun Tech Center is

an industrially zoned development with a Special Exception for 100% office development. The subject site is adjacent to one of the few vacant parcels in Loudoun Tech Center.

The commercial component is proposed to be developed at a very low density (0.18 FAR) and includes more residential than commercial development. Recent changes to the Revised 1993 Zoning Ordinance allows the by-right development of office uses in PD-IP districts with performance standards (including a minimum of two-stories oriented on major road ways and the ability to achieve higher densities with Special Exception approval).

If the application is approved to allow the development of residential and community-serving commercial uses, the applicant should commit to higher minimum office / commercial densities as well as building heights of at least two stories. If the proposed density is not achieved, the County is at risk of losing additional office square footage. Minimum densities will help to ensure that this scenario will not happen. The applicant is also encouraged to place retail on the first floor and office on the second floor.

Staff recommends the retention of this site as Keynote Employment in accordance with Comprehensive Plan policies. The proposal does not represent a mixed use project, but rather a mix of uses. The proposed development is not integrated with the commercial component of Dulles Town Center, there is no vertical integration of uses on the site, and there are no meaningful linkages between the development of the commercial component and the residential component.

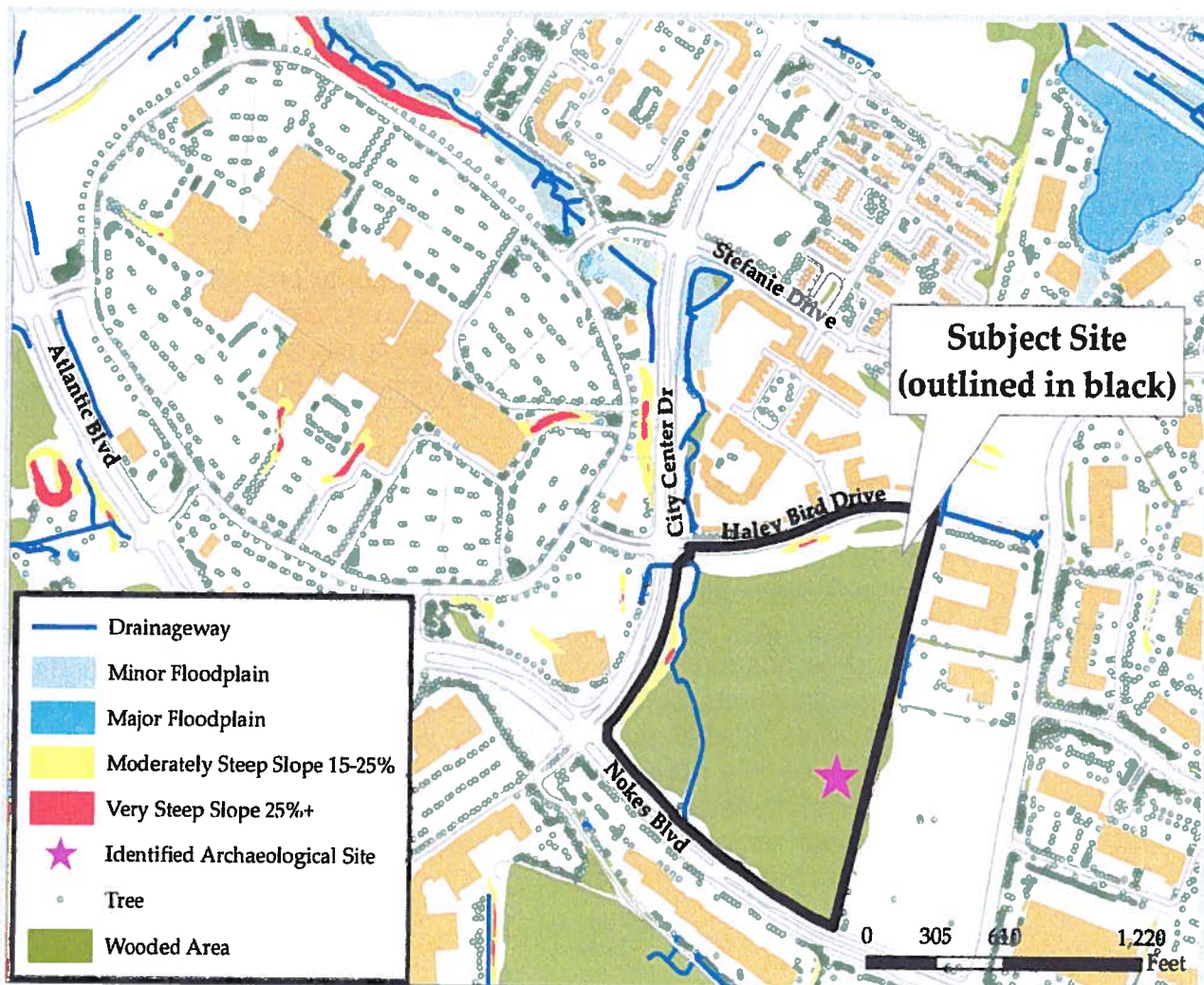
ENVIRONMENTAL REVIEW

The proposed site is almost completely forested. Additional green infrastructure resources on the property include an archeological site, a riparian corridor, wetlands, hydric soils, and man-made steep slopes (see environmental features next page). The site's most unique environmental feature is a riparian corridor which contains a stream and associated wetlands. The stream, which originates on the subject property, drains northward through the adjacent Parc Dulles development (where it has been preserved as a unique environmental feature of the community and becomes a minor floodplain). The stream corridor runs westward to the existing stormwater management pond serving the Dulles Town Center property (southeast corner of the Route 7/Route 28 interchange) before it drains into Broad Run.

Streams & Wetlands

The County encourages the protection and preservation of smaller stream segments (i.e., those draining less than 100 acres) through the application of conservation design techniques that will minimize disturbances due to the land development process. The Revised General Plan also calls for the protection of surface water resources from contamination and pollution and prevention of the degradation of water quality in the watersheds. The County supports the federal goal of no net loss to wetlands in the County. The applicant has conducted a wetland delineation and has submitted it to the U.S. Army Corps of Engineers (USCOE) for a jurisdictional determination. The proposed wetland impacts are located at the headwaters of the stream and appear to be relatively minor. In accordance with staff recommendations, the applicant has proffered wetland mitigation in the following priority: 1) onsite, 2) within the Broad Run watershed Area within the same Loudoun County geographic Planning Policy Area, 3) within the Broad Run Watershed Area within another

Loudoun County geographic Planning Policy Area, 4) elsewhere within Loudoun County, subject to approval by USACE and DEQ.



Existing Conditions

Forest, Trees and Vegetation

The Revised General Plan supports the conservation of forest resources during the site development process and calls for the submittal and approval of a tree conservation or forest management plan prior to any land development that “demonstrates a management strategy that ensures the long-term sustainability of any designated tree save areas”.

Based on staff recommendations, the site layout was redesigned to minimize impacts on the property’s riparian corridor by relocating a stormwater management facility (BMP Facility 1) out of the stream corridor and by expanding the Tree Conservation Area (TCA) to protect a larger area of the stream’s forested buffer. The applicant has proposed to incorporate some of the existing environmental features in a Stream Valley Plan (sheet 8) for the overall Dulles Town Center

development. While the vast majority of mature trees will be removed with this development, the Stream Valley Plan proposes to preserve large portions of the stream channel and associated wetlands, retain existing mature trees (Tree Conservation Area) adjacent to the stream corridor, and to re-vegetate the northwestern corner of the site adjacent to the stream corridor. While staff supports the concepts depicted in the Stream Valley Plan, general note 3 (sheet 8) states that implementation of the Plan will not be required if either the Dulles Town Center rezoning or the Parc Dulles II rezoning is denied. This note should be removed from the Stream Valley Plan.

Stormwater Management

In order to protect groundwater and surface water features, the County promotes the use of low impact development (LID) techniques, which use natural vegetation and small-scale treatment systems to treat and infiltrate rainfall close to the source. Permeable paving, vegetative buffers or filter strips, and the collection and use of rooftop run-off for irrigation and green roofs are examples of LID techniques.

The rezoning plat (Sheet 4) indicates that two Stormwater Management/Best Management Practices (SWM/BMP) facilities will be provided on the subject property. The larger SWM / BMP facility (BMP Facility 1), proposed in the northwestern portion of the site, will be developed as a wet pond and will serve the entire development, including the proposed public use site in the southeastern corner. The applicant is proffering to develop this facility when the residential units are constructed. If the public use site is needed before the development of the residential units, the applicant is not proposing to construct interim SWM facilities for the site. Instead, public funds would be required to construct these facilities. Staff maintains that the applicant should provide adequate stormwater facilities for the public use site regardless of development timing. The smaller facility (BMP Facility 2) is proposed in the southwestern portion of the site. The applicant has committed to provide at least one LID measure such as rain gardens or bio-swales in the development, in order to improve water quality before it enters the riparian corridor.

Steep Slopes

The Existing Conditions plat (Sheet 2) depicts areas of very steep slopes that are generally located around the northern, southern, and western boundaries. All steep slopes on the site are manmade. Staff notes that the steep slope standards in the Revised 1993 Loudoun County Zoning Ordinance have been revised to exempt slopes created by permitted land disturbing activities, such as, building and parking pad sites; berms; temporary construction stock-piles; and road-side ditches.

Road Noise Impacts

Both the Revised General Plan and the Countywide Transportation Plan (CTP) contain roadway noise policies that are intended to protect noise sensitive land uses along specific corridors. The Plan states that the "County will require all land development applications that propose land uses adjacent to any existing and/or proposed arterial and major collector roads will be designed to ensure that no residential or other type(s) of noise-sensitive use(s) will have traffic noise impacts which occur when the predicted traffic noise levels approach or exceed noise abatement criteria..., or when predicted traffic noise levels substantially exceed existing noise levels".

The proposed project is located at the intersection of two four-lane, major collector roads that generate roadway noise – Nokes Boulevard and City Center Boulevard. The applicant has proffered that for all residential units, interior noise levels shall not exceed an average sound level of 45 dBA. The proffers also require the applicant to submit a noise study concurrently with the initial residential site plan to ensure that this standard is achieved.

Archaeological & Historic Resources

The subject site is governed by the Revised General Plan and the Heritage Preservation Plan. The Revised General Plan states the County will require an archeological and historic resources survey as part of all development applications and include a plan for recordation and preservation of any identified resources, along with measures for mitigation and adaptive reuse. The Heritage Preservation Plan specifically states that the County's primary objective is to protect and conserve significant archaeological resources identified during the development process. The Preservation Plan further states that research and findings associated with archaeological surveys should be conveyed to the public in a format that is easily understood and accessed by the general public.

A previously unrecorded archaeological site (44LD947) has been identified along the eastern portion of the site within the residential component. The Phase I archeological survey identified it as an early nineteenth century domestic site based on the small artifact assemblage, which includes ceramics, bottle sherds, and brick fragments. Site 44LD947 is thought to be either a tenant or an African American slave site. Sites relating to enslaved African Americans and tenant farmers are not well documented in the County or the region. This site may yield important information related to these populations. Site 44LD947 is considered to be potentially eligible for listing in the National Register of Historic Places by the consultant who conducted the Phase 1 survey.

The applicant is preserving this site in a Tree Conservation Area (TCA) as depicted on the Rezoning Plat (sheet 4). The proffers (Proffer IV) provide a commitment that the applicant shall conduct a Phase II Archaeological Study for the site prior to any land disturbance and/or approval of any site plan on this portion of the site. The owner shall not be required to perform any additional archaeological studies for this site if it remains undisturbed in accordance with Plan policies. Staff has recommended a Phase II investigation to ascertain archeological site boundaries and eligibility for the National Register of Historic Places. A 25-foot buffer surrounding the site should be provided. If tree removal is required for any reason, trees should be cut and not dug out. The draft proffers should be amended to reflect these commitments to ensure viability of the site.

Lighting

The Revised General Plan states that the beauty of the County's night sky is threatened by excessive and improper lighting. It promotes the use of lighting for convenience and safety without the nuisance associated with light pollution. The applicant has proffered to direct all site lighting downward and to fully shield the lights.

Sustainable and Energy Efficient Design

The County encourages development that uses energy efficient design and construction principles, promotes high performance and sustainable buildings, and minimizes construction waste and other

negative impacts. The applicant has proffered (VIII.H) to provide a construction waste management plan prior to the issuance of building permits, to provide water conservation fixtures and building components, energy efficient appliances, fixtures, and building components, and energy efficient lighting fixtures in the residential component. There are no water or energy conservation commitments in the commercial component.

SPECIAL EXCEPTION REQUESTS

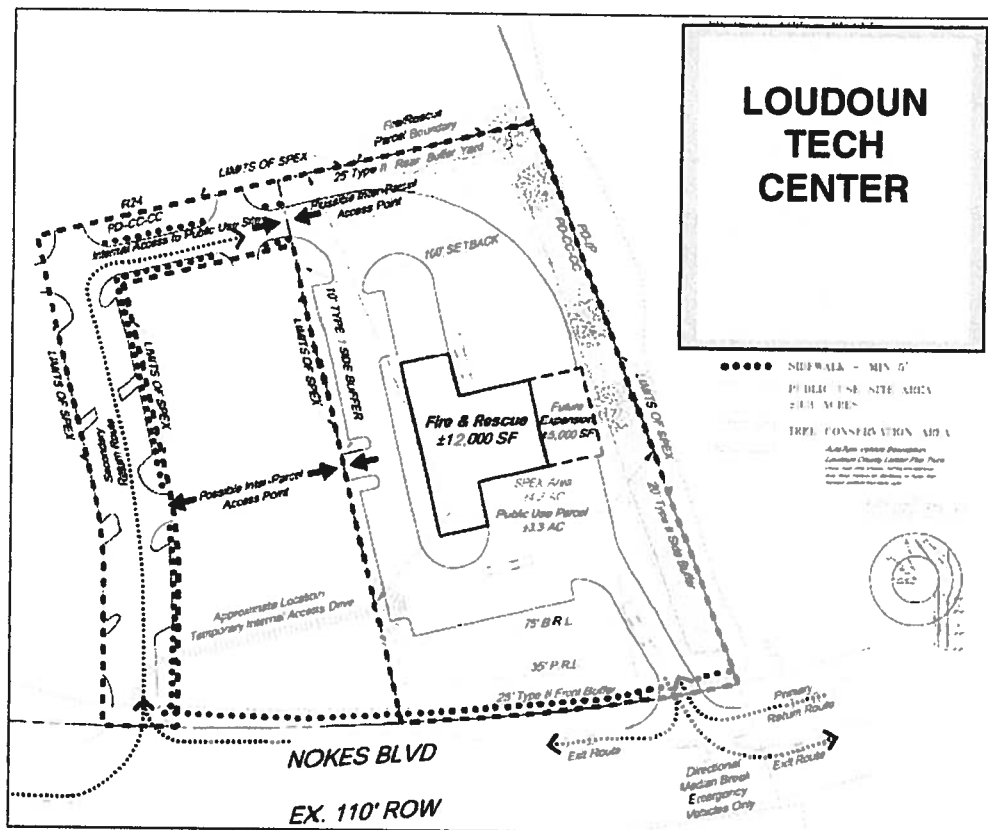
The applicant is requesting Special Exception approval for the following uses:

- a fire and rescue station; and
- office uses in excess of 20% of the commercial floor area.

Both special exceptions are proposed in the PD-CC-CC (Commercial Center) portion of the site.

Fire and Rescue Station (SPEX 2008-0026)

The applicant is proposing to develop a 3.3 acre public use site as a fire and rescue station in the southeast corner of the subject property adjacent to Nokes Boulevard and Loudoun Tech Center. The Special Exception Plat (sheet 6 – see Plat on next page) depicts a 12,000 sq. ft. fire and rescue station (with a 5,000 sq. ft. expansion area) and associated parking. Primary and secondary access points to the station are shown to Nokes Boulevard. The secondary access to the fire station is the same private road that will serve as the main access to the commercial component. The proposed layout would create numerous traffic conflicts between emergency vehicles accessing the station and general commercial traffic. Staff has raised serious concerns about the size and layout of the proposed fire and rescue site as well as the use of private roads for site access. Public uses, such as fire and rescue stations, typically require 5 acres in order to ensure adequate circulation and deployment of emergency vehicles.



In accordance with staff recommendations, the applicant revised the Concept Plan and proffers to identify this 3.3 acre area as a public use site; however, the proffers place significant land use restrictions that limit future development to a fire and rescue station or a park. Public use sites typically do not have such severe land use limitations. Staff also notes only a limited number of public use facilities, such as parks, recycling centers, community centers, and commuter parking lots could be developed on the property based on the proposed PD-CC-CC zoning designation.

While staff and the applicant have continued to meet regarding the development of a potential fire and rescue site at this location; staff is not able to commit to the specific layout / site access depicted on the Special Exception plat at this time. The Department of Fire, Rescue and Emergency Management will select an engineering firm that will conduct an analysis of the proposed 3.3 acre site to determine if the program requirements, vehicular circulation, and timely deployment of emergency vehicles can be accommodated at this location. Since substantial conformance to the development shown on the Special Exception plat is necessary during this process, staff requested the withdrawal of this request. The applicant has not agreed to withdraw the request and is continuing to pursue it.

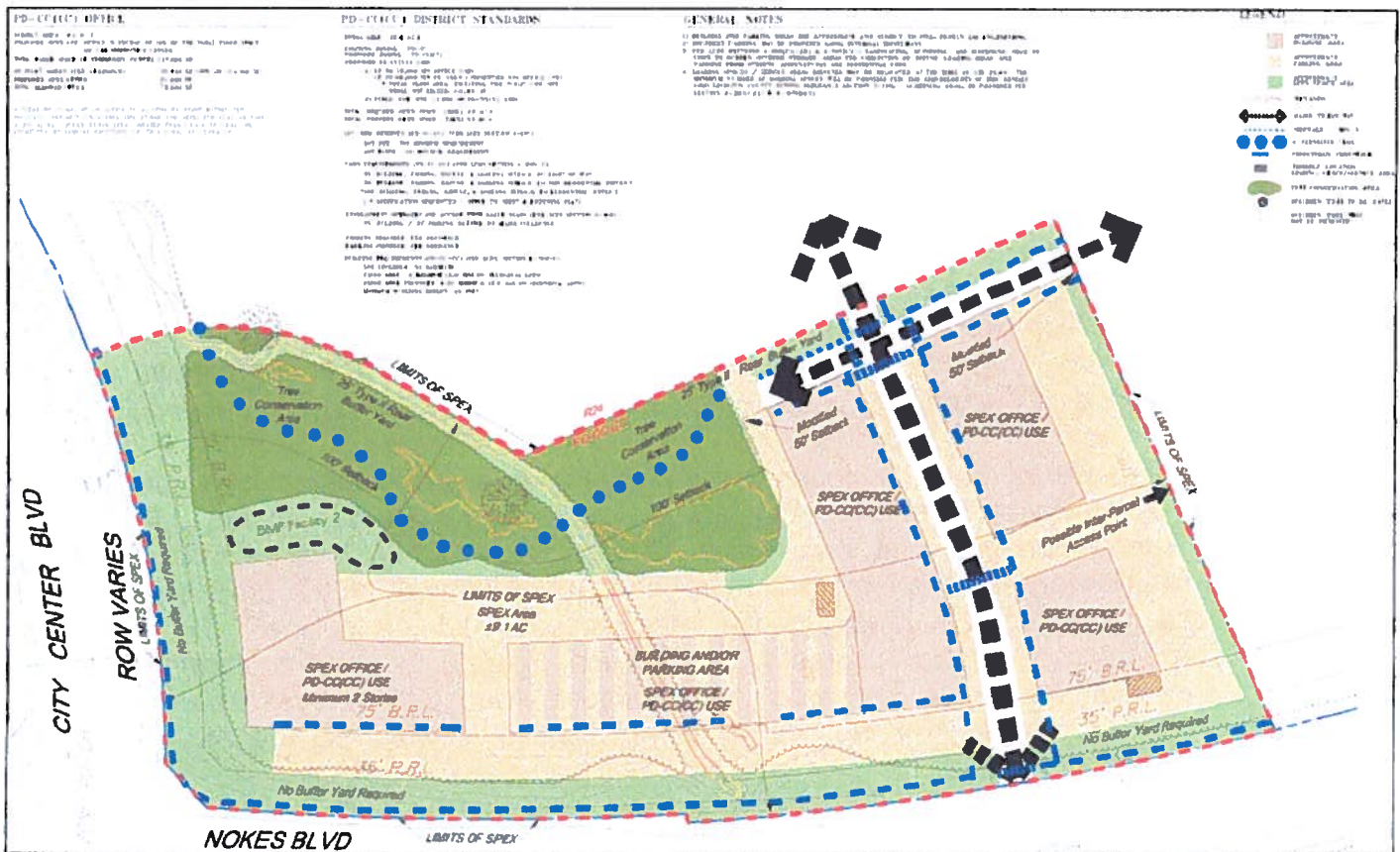
In 2002, Loudoun County voters endorsed a bond referendum that included funding for the design and construction of a public safety center in the Route 7/Route 28 corridor. The County is currently in the process of reviewing different locations for a future fire and rescue station in this region of the County. A potential 5-acre site in Kincora and a 5.1 acre site in Steeplechase (southwest corner of Atlantic Boulevard and Severn Way) are currently under review as potential sites. The Kincora site is a component of the rezoning application (ZMAP 2008-0021) currently under review by the Planning Commission. The Steeplechase site (ZMAP 2008-0008) recently converted to the

provisions of the Revised 1993 Zoning Ordinance, which allows fire and rescue stations by Special Exception.

Office in excess of 20% of the Commercial Area

The applicant is requesting a Special Exception to allow office uses in excess of 20% of the commercial floor area (see Spex Plat below page). The Concept Plan and proffers cap commercial development at 100,000 square feet (.18 FAR). Up to 75,000 square feet (75% of the site) can be developed with office uses and up to 60,000 square feet (60 % of the site) can be developed with other permitted PD-CC-CC uses (17,000 square feet will be available for the public use site).

As stated in the Revised 1993 Zoning Ordinance, the purpose of the PD-CC-CC zoning district is to serve the retail shopping needs of the surrounding community. Office uses should not be the predominate use in this district. Staff does not support the Special Exception request since the proposal does not meet the purpose and intent of a PD-CC-CC district. The application should be revised to rezone the southern portion of the property to a PD-OP (Office) designation in order to develop more office uses and to comply with planned land use policies.



ZONING

The property under consideration is a 34.1 acre parcel that is currently zoned PD-IP (Planned Development – Industrial Park) under the 1993 Zoning Ordinance. Approval of the request would allow the development of 445 multifamily units within a 21.7 acre component (R-24 zoning district) and 117,000 square feet of commercial uses and a public use site within a 12.4 acre component

(PD-CC-CC zoning district) under the Revised 1993 Zoning Ordinance. Additional applications consist of Special Exceptions for a potential fire and rescue site and office uses in excess of 20% of the commercial square footage. Zoning Ordinance modifications have been requested to reduce yards adjacent to a residential district and to allow site access via private access roads instead of a public road.

Staff has identified significant concerns related to Comprehensive Plan conformance, the purpose and intent of a Commercial Center (PD-CC) zoning district, the use of private roads to serve the development, the size / layout of the potential fire and rescue site, and the proposed zoning modifications.

Comprehensive Plan conformance

The planned land use of the property is Keynote Employment. The Revised General Plan calls for regional office and/or research and development uses in this designation. The Revised 1993 Zoning Ordinance, Section 3-701 (Purpose) specifies that R-24 districts shall be mapped in locations designated primarily for infill development or in other locations consistent with the Comprehensive Plan. Section 4-201 (Purpose) of the Revised 1993 Zoning Ordinance, specifies that Commercial Centers (PD-CC) shall be located in areas consistent with the Comprehensive Plan. The proposed rezoning to R-24 and PD-CC-CC is not consistent with the land use policies of the Comprehensive Plan since the application proposes high-density residential, community-serving retail and small scale office uses instead of large-scale office and research and development uses.

Purpose of PD-CC-CC (Commercial Center – Community Center)

The applicant recently amended the application to increase the amount of potential office development from 23,400 square feet to 75,000 square feet (maximum of 100,000 square feet of commercial development proposed). This increases the amount of office in the PD-CC-CC district from 23% to 75%. This is not consistent with the purpose of the PD-CC-CC district, which is to serve the retail shopping needs of the surrounding community. Office uses should not be the predominate use in a PD-CC-CC district. If the applicant intends to develop significant amounts of office space, the appropriate district is PD-OP (Office Park), which would allow a predominant office development and would be in conformance with Keynote Employment policies.

Private Road Access

The development would be served by private streets, including the main spine road that connects the commercial and residential components. Staff has consistently recommended that the main spine road should be public. The PD-CC-CC regulations, Section 4-206 (D) of the Revised 1993 Zoning Ordinance state that vehicular access to commercial centers shall be provided on collector roads, which, by definition, are publicly owned and maintained. This section also specifies that primary access to commercial areas shall be prohibited on residential neighborhood streets. The site layout proposes a continuous, 2-lane private street that connects directly from the commercial component to the residential component. The applicant has stated that private streets are needed to accommodate certain design aspects (such as reduced setbacks). A public road should be provided to access disparate uses between the two zoning districts.

Size / Layout - fire and rescue station

In accordance with Service Plan Standards, fire and rescue sites require 5 acres as opposed to the 3.3 acres proposed by the applicant. One of the return routes for the emergency vehicles is the main access road for the shopping center / office component. As currently depicted on the Spex Plat, the secondary return route through the shopping center requires fire/rescue vehicles to travel along a road containing angled parking. Based on the proposed layout, motor vehicles will be backing out into the emergency vehicle return route. The design creates multiple conflicts between the residential/commercial users and the fire/rescue vehicles. The applicant has not addressed noise levels that will be generated on the site or provided any mitigation measures. Staff maintains that the proposed site is not large enough and continues to pose internal and external vehicle circulation problems.

Zoning Ordinance Modifications

The applicant is requesting two modifications of the Revised 1993 Zoning Ordinance related to reduced yards and site access. Staff does not support either of the modification requests.

Modification #1: Section 4-205(C)(2). Adjacent to Residential Districts and Land Bays Allowing Residential Uses. No building, parking, outdoor storage, areas for collection of refuse or loading area shall be permitted closer than 100 feet to any existing or planned residential district.

Proposed modification request: Modify the yard requirements between the commercial center and the adjacent R-24 district. Reduce the yard for buildings, parking, areas for collection of refuse and loading areas from 100 feet to 50 feet, provided that no outdoor storage, areas for collection of refuse or loading areas shall be visible from residential areas and parking shall be screened to the extent feasible. Provide a 25-foot minimum Type II rear yard buffer instead of the required Type I buffer.

Applicant Justification: The proposal seeks to provide an innovative design that integrates the multifamily residential and neighborhood-scale non-residential uses, resulting in a reduced separation between residential and non-residential buildings – 75 feet instead of the cumulative 125 feet that would be required without modification. It provides for a more compact and walkable community. Because a Type II buffer will be provided, however, the proposed modification will result in a more heavily landscaped if narrower separation between the residential and non-residential portions of the property.

Staff Review: Staff does not support this modification. The applicant is proposing to reduce yard requirements by 50% (from 100 feet to 50 feet) and increase the buffer plantings from a Type 1 to a Type 2 buffer. A Type 1 buffer (consisting of 1 canopy and 4 understory trees) would be increased to a Type 2 buffer (consisting of 2 canopy, 4 understory, 10 shrubs, and 2 evergreen trees). The proposed Type 2 buffer does not sufficiently screen the commercial development from the residential development to warrant a 50% yard reduction. The proposal does not exceed the public purpose, improve upon existing regulations or offer an innovative design. The applicant's proposal to screen parking "to the extent feasible" should be removed from the modification request.

Modification # 2; Section 4-206(D). **Vehicular Access to Commercial Centers.** Primary access shall be prohibited on residential neighborhood streets. This prohibition does not apply to collector roads through residential neighborhoods. Each commercial center shall provide a vehicular circulation plan that minimizes direct vehicular access to parking stalls from major cartways, and provides other on and off-site improvements to enhance pedestrian and vehicular circulation.

Proposed modification request: This modification proposes access to public roadways (Nokes Boulevard) via private access easements.

Applicant Justification: The subject property is bounded by 2 major collector roads (Nokes and City Center Boulevards) and a collector road (Haleybird Drive). The proposed modification permits internal access to be provided via 2 entrances – Haleybird and Nokes – and a private street instead of a collector road. The proposed modification improves upon the existing regulation by supporting the use of private streets internally which supports a pedestrian friendly design that can balance pedestrian and vehicular connectivity between the residential and non-residential portions of the site. A collector road or even a minor collector road constructed to VDOT standards would not be appropriate as an internal roadway.

Staff Review: Staff does not support this modification. The applicant's proposal to mix residential traffic, commercial traffic and emergency vehicle traffic on a private, 2-lane road will create numerous traffic conflicts throughout the development. The proposed layout depicts angled parking adjacent to the main spine road which will necessitate vehicles backing up into the main access area. The proposal does not exceed the public purpose, improve upon existing regulations or offer an innovative design.

EMERGENCY SERVICES

The Sterling Volunteer Fire and Rescue Company will provide fire and rescue services to the site. County policy anticipates a contribution of \$60.00 for each market rate residential unit and \$.05 per square foot of non-residential development. Proffers VI.A. and IV.B. provide contributions of \$120.00 and \$0.05 for residential and non-residential development respectively, both of which are consistent with Board policy. Other issues identified by the Department of Fire, Rescue and Emergency Services include the need for a five-acre site to accommodate a fire and rescue station for the Route 7 / Route 28 corridor. A site has been included in this application; however, at 3.3 acres, the size of the site is substandard and has significant access issues.

SCHOOLS

Loudoun County Public Schools has indicated that the proposed 445 multifamily units will generate a total of 115 students (59 elementary students, 25 middle school students, and 31 high school students). The school system has estimated that these students will create a capital cost of \$4,493,558 and annual operating costs of \$1,469,746. Based on existing School Board adopted boundaries, students from this community would attend Countryside Elementary, River Bend Middle, and Potomac Falls High Schools. Potomac Falls High School is currently over capacity. Countryside Elementary and River Bend are close to capacity.

TRANSPORTATION

Existing Roads

The subject property is located on the northeast corner of Nokes Boulevard and City Center Boulevard. Haleybird Drive borders the site along the northern property line. Nokes Boulevard and City Center Boulevard are four-lane median divided major collector roads with turn lanes at all major intersections. A traffic signal is in place at the City Center Boulevard/Nokes Boulevard intersection. The 2001 Countywide Transportation Plan (CTP) calls for this segment of Nokes Boulevard to be a four-lane divided major collector road with separate left & right turn lanes. The CTP calls for City Center Boulevard to be a similar facility consisting of a four-lane divided road within a 120-foot right-of-way, with right and left turn lanes at all intersections. These roads are completed to their ultimate sections.

Haleybird Drive is an existing four-lane undivided road located along the northern boundary of the site that currently terminates in a cul-de-sac at the eastern boundary (adjacent to Loudoun Tech Center). While it is not included in the CTP for improvement, it is proposed to connect to Ridgetop Circle to the east as a four-lane undivided road, providing inter-parcel access between Dulles Town Center and Loudoun Tech Center.

Trip Generation

The existing PD-IP zoning could yield approximately 306,000 square feet of light industrial and 294,000 square feet of office development. Based on trip generation rates, the currently approved development would generate approximately 5,221 average daily trips (including 713 a.m. and 684 p.m. peak hour vehicle trips). The proposed 445 multi-family units would generate 2,825 daily trips (169 a.m. peak and 203 p.m. peak hour vehicle trips). The proposed office and retail uses would generate 5,531 daily trips, 205 a.m. peak and 571 p.m. peak hour trips. While there are no ITE trip rates for fire & rescue stations, the trip generation is believed to be relatively low. The total generated vehicle trips for the proposed multi-family, office and retail development is 8,356 average daily trips (including 374 a.m. peak and 774 p.m. peak hour trips). This equates to an increase of 62% in anticipated traffic from the approved office / light industrial development.

Extension of Haleybird Drive

A four-lane section of Haleybird Drive is already completed along the northern property line. The applicant has proffered to construct a half-section (2 lanes) of Haleybird Drive off-site to the east to connect with Ridgetop Circle in Loudoun Tech Center. Loudoun Tech Center has already dedicated sufficient right-of-way to accommodate the four-lane extension. The applicant proposes to provide a two-lane section of Haleybird Drive to Ridgetop Circle prior to approval of the initial site plan for residential development or prior to occupancy of at least 50,000 square feet of commercial development.

In conjunction with the approved proffers for the Dulles Town Center rezoning application (ZMAP 1990-0014), the applicant provided a letter of clarification dated December 16, 1991, that required the construction of a half section (2-lanes) of Haleybird Drive from City Center Boulevard (Dulles Town Center) to Ridgetop Circle (Loudoun Tech Center). The letter of

clarification states that the half section should have been constructed concurrently with the development of the Parc Dulles community (immediately north of the subject site). A 4-lane extension of Haleybird Drive needs to be constructed with this application to Ridgetop Circle in order to complete the surrounding road network.

Cash Equivalency for Traffic Signals

The County anticipates that two traffic signals will be needed to accommodate site traffic—one at the proposed site entrance off Nokes Boulevard and one at the intersection of City Center Boulevard and Haleybird Drive. The applicant has proffered to provide a warrant study (prior to the 300th residential unit for the City Center signal and within 2 years of the 50,000th square foot of commercial development for the Nokes signal) and to install both signals if warranted. If signals are not needed at the time the warrant study is completed, the applicant's proffers specify that there will be no obligation to provide traffic signals in the future. If traffic signals are not warranted at a specific time, developers generally proffer cash equivalencies to cover the cost to install traffic signals in the future. The applicant has not agreed to provide a cash equivalency for future signals. This would require the use of public funds to install future traffic signals at these intersections.

Transit Contributions

Staff has recommended a transit contribution of \$575 per dwelling unit (total contribution of \$255,875) in order to facilitate transit services in the vicinity of the subject site. The applicant has agreed to provide a contribution if the Dulles Town Center rezoning application (with a proposed transit center) is not approved. Staff maintains that the Dulles Town Center application is a separate proposal that has no bearing on transit contributions for this case.

An existing failing level-of-service at the intersection of Route 7/City Center Boulevard (north of the subject site) is an issue that has been raised in the context of the Dulles Town Center rezoning application, which is currently under County review. The transportation improvements recommended in this application, consisting of a 4-lane extension of Haleybird Drive to Ridgetop Circle, signalization of adjacent intersections (including cash equivalencies), and contributions to facilitate transit services, will all help to mitigate transportation impacts associated with this development.

D. ZONING ORDINANCE CRITERIA FOR APPROVAL

Section 6-1211(E) of the Revised 1993 Zoning Ordinance states, "...if the application is for reclassification of property to a different zoning district classification on the Zoning Map, the Planning Commission shall give a reasonable consideration to the following matters..."

(1) Whether the proposed zoning district classification is consistent with the Comprehensive Plan.

The proposed R-24 (Multifamily Residential) and PD-CC-CC (Planned Development-Commercial Center-Community Center) zoning districts are not consistent with the Comprehensive Plan, which calls for Keynote Employment at this location.

(2) Whether there are any changed or changing conditions in the area affected that make the proposed rezoning appropriate.

There are no changing conditions in the area that make the rezoning appropriate. The surrounding properties to the east, south, and west are approved and/or developed with office, light industrial and destination retail uses. The adjacent residential uses to the north were developed when the Comprehensive Plan designated the area as Business community (which allows a residential component). Except for the development of a 50 to 90 acre Urban Center, the entire Dulles Town Center property is planned as Keynote Employment (with a Destination Retail overlay in specific areas). This designation does not permit the development of residential uses.

(3) Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.

The proposed residential use is compatible with the adjacent Parc Dulles development to the north, however, there could be potential land use conflicts with the office/ light industrial uses approved to the east in Loudoun Tech Center. The proposed commercial uses are compatible with the surrounding office, light industrial, and retail uses.

(4) Whether adequate utility, sewer, and water, transportation, school and other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned.

There are adequate utility, and public water and sewer facilities to serve the development. The regional road network is in place to serve the development; however, additional transportation improvements, consisting of a 4-lane extension of Haleybird Drive to Ridgetop Circle, a cash equivalency for two future traffic signals, and a per unit transit contribution are necessary to mitigate traffic impacts of the development. Based on current School Board boundaries, schools serving the site are over capacity or close to capacity.

(5) The effect of the proposed rezoning on the county's ground water supply.

The property will be served by public water and sanitary sewer. No ground water impacts are anticipated from water or sewage disposal.

(6) The effect of uses allowed by the proposed rezoning on the structural capacity of the soils.

Impacts to the structural capacity of the soils will be mitigated by appropriate engineering methods consistent with the Facilities Standards Manual (FSM).

(7) The impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety in the vicinity and whether the proposed rezoning uses sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods and school areas.

Staff has recommended transportation improvements consisting of a 4-lane extension of Haleybird Drive to Ridgetop Circle, a cash equivalency for two future traffic signals (if warrants are not met), and a transit contribution to mitigate traffic impacts of the development. Plan

policies call for 10- foot wide shared use trails to accommodate pedestrian and bicycle traffic along Nokes Boulevard and City Center Boulevard. The CDP depicts a 5-foot wide sidewalk along both property frontages.

(8) Whether a reasonably viable economic use of the subject property exists under the current zoning.

A reasonably viable economic use can be achieved under the current zoning as evidenced by the approved development to the east (office / flex industrial) and south (office/ flex industrial).

(9) The effect of the proposed rezoning on environmentally sensitive land or natural features, wildlife habitat, vegetation, water quality and air quality.

The site is undeveloped and contains a number of natural features including a stream and associated wetlands, and extensive mature trees. The applicant is proposing to retain the majority of the stream and wetlands as depicted in the Stream Valley Plan (sheet 8). Most of the existing trees will be removed. Tree Conservation Areas are proposed along a portion of the eastern boundary (including the archeological site) and in the central portion of the property.

(10) Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.

The application does not encourage economic activities as designated by the Comprehensive Plan. The Plan calls for the development of Keynote Employment on the subject site, not residential and community serving retail and small offices. The proposed development will provide less employment opportunities and will enlarge the tax base less than the development of Keynote Employment.

(11) Whether the proposed rezoning considers the needs of agriculture, industry, and business in future growth.

The application proposes uses that are not in keeping with the planned Keynote Employment designation.

(12) Whether the proposed rezoning considers the current and future requirements of the community as to land for various purposes as determined by population and economic studies.

Parc Dulles II proposes residential, community-serving retail, office uses, and a potential fire and rescue station. The Comprehensive Plan calls for the development of large-scale office with no residential development. Generally, there are negative fiscal impacts to the County associated with residential development.

(13) Whether the proposed rezoning encourages the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.

The application does not propose the most appropriate land use. Keynote Employment policies call for large-scale office and research and development at this location. Based on the

surrounding uses to the east, west, and south, the subject site is well-suited for the planned land use.

(14) Whether the proposed rezoning considers trends of growth or changes, employment, and economic factors, the need for housing, probable future economic and population growth of the County and the capacity of existing and/or planned public facilities and infrastructure.

The application proposes to provide a mix of multifamily units, community-serving retail, and office uses. The proposal is not consistent with Plan policies which call for Keynote Employment. Schools serving the property are over capacity or close to capacity.

(15) The effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of Loudoun County.

This rezoning does not propose any commitments to affordable housing above that required by the Revised 1993 Zoning Ordinance. Board policies anticipate that residential applications will include provisions for unmet housing needs across a broad segment of the County's income spectrum. The applicant should provide a contribution or actual units for unmet housing needs for citizens making 0 -100% of the County's Area Median Income (AMI).

(16) The effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.

The applicant is preserving archeological features in a Tree Conservation Area. The majority of the stream and associated wetlands will be preserved as depicted within the Stream Valley Plan. Most of the mature vegetation will be removed.

E. SPECIAL EXCEPTION CRITERIA FOR APPROVAL

Section 6-1310 of the Loudoun County Zoning Ordinance states "In considering a Special Exception application, the following factors shall be given reasonable consideration. The applicant shall address all the following in its statement of justification or Special Exception plat unless not applicable, in addition to any other standards imposed by this Ordinance":

(A) Whether the proposed Special Exception is consistent with the Comprehensive Plan.

The proposed fire and rescue station is considered a civic use, which is permitted in Keynote Employment designations. There continue to be concerns regarding the size of the site, the site layout, potential noise impacts, and site access issues. The request to allow office in excess of 20% of the commercial area is consistent with Plan policies, which call for office development at this location.

(B) Whether the proposed Special Exception will adequately provide for safety from fire hazards and have effective measures of fire control.

Both uses would be constructed to comply with all applicable fire safety and building requirements.

(C) Whether the level and impact of any noise emanating from the site, including that generated by the proposed use, negatively impacts the uses in the immediate area.

The fire and rescue station could have negative noise impacts on the existing residential units located to the north of the site and the residential component proposed in the application. No negative impacts are anticipated from the proposed office development.

(D) Whether the glare or light that may be generated by the proposed use negatively impacts uses in the immediate area.

Conditions of approval have been included for the office Special Exception. There are no conditions of approval associated with the potential fire station since the County cannot commit to the specific layout / access depicted on the Plat. If / when a commitment can be made to a specific site layout, staff will recommend conditions of approval requiring lighting that is cutoff and fully shielded that is directed inward and downward.

(E) Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.

There could be negative noise impacts on the proposed / existing residential uses to the north of the fire and rescue station site. Staff has identified access concerns since the secondary emergency vehicle access uses the primary spine road to access the commercial uses. The proposed office uses are compatible with existing and proposed surrounding uses.

(F) Whether sufficient existing or proposed landscaping, screening and buffering on the site and in the neighborhood to adequately screen surrounding uses.

The applicant has proposed a modification to reduce the required yards from 100 feet to 50 feet between the commercial and residential components. The required buffer planting would be increased from a Type 1 rear yard buffer to a Type 2 rear yard buffer. Staff maintains that the proposed screening is inadequate to warrant a 50% reduction in the required yard. The applicant's proposal does not exceed the public purpose of the regulation.

(G) Whether the proposed Special Exception will result in the preservation of any topographic or physical, natural, scenic, archaeological, or historic feature of significant importance.

The Special Exception requests will not preserve any significant features on the site.

(H) Whether the proposed Special Exception will damage existing animal habitat, vegetation, water quality (including groundwater) or air quality.

Tree stands are located within the Special Exception areas. The proposed office / retail area contains a segment of the Stream Valley Plan. Stream corridor resources will be retained as depicted on sheet 8.

(I) Whether the proposed Special Exception at the specified location will contribute to or promote the welfare or convenience of the public.

The proposed fire and rescue station will provide for emergency services to the surrounding community. Office development will provide employment opportunities and will contribute to and promote the welfare and convenience of the public.

(J) Whether the traffic expected to be generated by the proposed use will be adequately and safely served by roads, pedestrian connections and other transportation services.

Regional roads, consisting of City Center Boulevard and Nokes Boulevard have been built to their ultimate configuration. Staff has noted concerns about access to the fire and rescue station since emergency vehicles and general commercial traffic will both use a private, 2-lane road for access. Inadequate facilities for pedestrian / bicycle traffic are proposed along City Center and Nokes Boulevards.

(K) Whether, in the case of existing structures proposed to be converted to uses requiring a Special Exception, the structures meet all code requirements of Loudoun County.

The proposed sites are undeveloped.

(L) Whether the proposed Special Exception will be served adequately by essential public facilities and services.

The proposed uses will be served by public utilities, including water and sewer.

(M) The effect of the proposed Special Exception on groundwater supply.

The sites will be served by public water and sewer and will include stormwater management facilities. No negative effect on the groundwater supply is anticipated.

(N) Whether the proposed use will affect the structural capacity of the soils.

The proposed uses will be built pursuant to standards established by the Facilities Standards Manual (FSM). No detrimental impacts to the structural capacity of the soils are anticipated.

(O) Whether the proposed use will negatively impact orderly and safe road development and transportation.

Staff has identified site access issues with the proposed fire and rescue station site. Vehicular conflicts are anticipated between emergency vehicles and general commercial traffic.

(P) Whether the proposed Special Exception uses will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.

The proposed fire and rescue station is considered a civic use that is consistent with the Comprehensive Plan. Office uses will provide employment opportunities and will enlarge the tax base consistent with the Comprehensive Plan.

(Q) Whether the proposed Special Exception considers the needs of agriculture, industry, and businesses in future growth.

The Special Exception applications propose a fire and rescue site and office in excess of 20% of the commercial square footage. Office development complies with the planned land use for the area.

(R) Whether adequate on and off-site infrastructure is available.

Public utilities, including water and sewer, will be extended and are available for the proposed uses.

(S) Any anticipated odors which may be generated by the uses on site, and which may negatively impact adjacent uses.

No odors are anticipated from the proposed sites.

(T) Whether the proposed Special Exception uses sufficient measures to mitigate the impact of construction traffic on existing neighborhoods and school areas.

Existing residential development is located on the north side of Haleybird Drive, across from the subject site. There are no schools in the vicinity. The applicant has not provided any information regarding construction access.

ATTACHMENTS	PAGE NUMBER
1. Review Agency Comments	
a. Planning Department, Community Planning	A-1
b. Building and Development, Zoning Administration	A-44
c. Building and Development, Proffer Review	A-58
d. Building and Development, ERT	A-64
e. Office of Transportation Services (OTS)	A-73
f. Virginia Department of Transportation (VDOT)	A-79
g. Economic Development	A-81
h. Fire, Rescue, & Emergency Management	A-84
i. Parks, Recreation and Community Services	A-89
j. Loudoun County Public Schools	A-94
k. Proffer Matrix Team	A-95
2. Disclosure of Real Parties in Interest	A-101
3. Applicant's Statement of Justification	A-116
4. Applicant's Response to Referral Agency Comments	A-147
5. Proffer Statement dated October 15, 2009	A-299

Parc Dulles II

(ZMAP 2002-0017)

PROFFER STATEMENT

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

PREAMBLE

Pursuant to the Code of Virginia, 1950, as amended, and Section 6-1209 of the Revised 1993 Loudoun County Zoning Ordinance ("Zoning Ordinance"), as amended, DTC Partners, LLC (the "Owner"), owner of Loudoun County Tax Map 80, Parcel 102 (MCPI 029-37-6224) (portion) consisting of approximately 34.1 acres of real property (the "Property") which is the subject of rezoning application ZMAP 2002-0017, hereby voluntarily proffers that development of the Property shall be in substantial conformity with the proffers as set forth below (the "Proffers") and with Sheets 1 and 4 of Exhibit A, Parc Dulles II Rezoning Application Plan set, prepared by Dewberry & Davis, LLC, dated July, 2002, revised through October 15, 2009. All Proffers made herein are contingent upon the approval by the Board of Supervisors of Loudoun County (the "Board") of the change in the zoning district requested in rezoning application ZMAP 2002-0017 from the PD-IP zoning district to the R-24 and PD-CC(CC) zoning districts.

I. REZONING PLAT

A. Substantial Conformity. The Owner proffers that the Property shall be developed in substantial conformity with Sheets 1 and 4 of the Parc Dulles II Rezoning Application Plan Set attached hereto as Exhibit A dated July, 2002, with revisions through October 15, 2009, prepared by Dewberry and Davis, LLC (collectively the "Rezoning Plat"). The Property shall be developed as follows:

Attachment 2

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

1. Residential Land Use.

- a. **Density.** To include up to 445 multi-family units, of which 6.25% of the actual units built shall be Affordable Dwelling Units (ADUs), as, and to the extent, required by Section 7-100 of the Zoning Ordinance and to be disbursed throughout the site as, and to the extent, required by Section 7-100 of the Zoning Ordinance.
- b. **Design.** Residential buildings, including associated community center facilities, shall be designed and constructed with a combination of architectural design and materials found generally in better quality luxury residential developments in Loudoun County such as those used in the residential project located immediately to the north of the Property and known as "Parc Dulles." Additional design commitments include pedestrian-scale lighting and the provision of benches in active recreation spaces. A Type II Rear buffer yard will be provided adjacent to the PD-CC(CC) zoning district.

2. Commercial Land Use.

- a. **Density.** To include up to 117,000 square feet of uses permitted in the PD-CC(CC) zoning district allocated as follows:
 - i. 17,000 sf shall be available solely for the Public Use Site.
 - ii. Development outside of the Public Use Site shall not exceed 100,000 square feet. No more than 60,000 square feet shall be available for permitted non-office PD-CC(CC) uses. Up to 75,000 square feet shall be available for office uses. (23,400 square feet of office use is permitted in the PD-CC(CC) zoning district, and 51,600 square feet of office use is permitted pursuant to Special Exception 2008-0027).
 - iii. A tabulation, by square footage, of all uses within the PD-CC(CC) land bay shall be provided on all site plans for the area designated as "Limits of Office Special Exception," on Sheet 4 of the Rezoning Plat. Said tabulations shall categorize uses as "Office-by right," "office – by Special Exception," or "non-office, by-right" and shall provide the

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cumulative square footage of each along with the maximum permitted for each category.

3. **Phasing.** Prior to the issuance of the 400th zoning permit for residential uses in the R-24 Zoning District, the Owner shall have obtained zoning permits for at least 14,000 square feet of development in the PD-DD(CC) Zoning District, excluding the Public Use Site.

The Property shall also include 10.2 acres of open space in the area shown on the Rezoning Plat as Approximate Open Space, Approximate Active Recreation Space, and Tree Conservation Area.

B. **Administration.** The Property will be developed in accordance with the PD-CC(CC) Zoning District pursuant to Section 4-200 of the Zoning Ordinance and the R-24 Zoning District, pursuant to Section 3-700 of the Zoning Ordinance.

II. **PUBLIC WATER AND SANITARY SEWER**

The Property shall be developed using public water and sewer facilities, which shall be provided to the Property at no cost to Loudoun County (the "County") or to Loudoun Water.

III. **STORMWATER MANAGEMENT AND WATER QUALITY**

A. **Water Quality.** The Owner will provide water quality and Best Management Practices ("BMPs") in accordance with the Loudoun County Facilities Standards Manual ("FSM") standards applicable at the time of Site Plan submission. BMP Facility 1, as depicted on Sheet 4, will be provided as a retention (wet) pond with sediment forebays, and will be located to the extent practical so as to not disturb the adjacent wetlands and drainage channel. This facility shall be constructed at the time of construction of the adjacent residential uses and shall provide BMPs for the new development of the Property located east of the on-site wetlands which drain to such facility, including the 3.3 acre Public Use Site. A temporary facility may be constructed on the Property to serve the PD-CC(CC) zoned property if commercial development therein precedes the residential development permitted in the R-24 zoning district.

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B. Low Impact Development. The Owner shall provide at least one Low Impact Development (LID) measure deemed likely to be effective based on the physical characteristics of the site. LID measures may include but are not limited to rain gardens, bio-swales, and other structural devices. Any LID measure will be subject to review and approval by the County to ensure that such LID measures are consistent with the Loudoun County Facilities Standards Manual (FSM) effective at the time of site plan review and shall be included in the site plan for the portion of the Property that includes the LID measure.

C. Interim BMPs for Public Use Site. Should the Public Use Site develop prior to the construction of BMP Facility 1, depicted on Sheet 4 of the Rezoning Plat, interim BMP facilities and/or LID strategies may be needed to serve the Fire/Rescue Site. The Owner shall provide temporary easements that may be needed for construction by the County of interim BMP/LID facilities and shall cooperate with the appropriate Loudoun County agency in siting such interim BMP facilities. Such temporary easements shall terminate at such time as BMP Facility 1 is constructed.

IV. ARCHAEOLOGICAL SURVEY

If the Owner is to perform any land disturbing activities within the area shown on the Rezoning Plat as "Archaeology Area," which includes the site identified as 44LD947 in the Phase I Archeological Study prepared by Thunderbird Archeological Associates, Inc, the Owner shall provide the County with the results of a Phase II Archeological Study of said site. If a Phase III Archeological Study is recommended for site 44LD947 as a direct result of the Phase II Study, the Phase III will be conducted prior to any land disturbance and/or approval of any site plan (whichever occurs first) for the Property. All future land development submissions that include the archaeological site shall depict the location of the site.

The Owner shall not be required to perform any additional archeological studies for site 44LD947 if the area identified as the Archaeology Site on the Rezoning Plat remains undisturbed. The Archaeology Site shall be demarcated with metal demountable (chain link) fencing during construction to protect the integrity of the site. Further, the restrictions set forth in Proffer VIII.C, "Tree Conservation Area," are applicable to the Archaeology Area.

V. TRANSPORTATION

A. Road Network. Unless otherwise specified in these Proffers, all roads constructed pursuant to these Proffers shall be constructed in accordance with the County of Loudoun's Land Subdivision and Development Ordinance (LSDO) and the Facilities Standards Manual (FSM) to provide access to the development parcels depicted on the Rezoning Plat. All

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roads proffered herein for access to and within the Property will be designed and constructed in accordance with Virginia Department of Transportation ("VDOT") and County standards for private roads, unless modified otherwise. Public ingress-egress easements will be placed on all private streets in the development for County and Emergency vehicles.

B. Haleybird Drive Extended. Prior to the issuance of approval of the first site plan for any residential development in the R-24 zoning district or prior to the issuance of the first occupancy permit for more than 50,000 square feet of non-residential development in the PD-CC(CC) zoning district (exclusive of the Public Use Site), whichever is first in time, the Owner shall submit an application to construct a 2-lane section of Haleybird Drive from its current terminus in Dulles Town Center to its intersection with Ridgetop Circle, including required turn lanes and a five (5) foot wide sidewalk to provide a pedestrian connection from the Property to Ridgetop Circle. The Owner shall commence construction within 120 days of receipt of all required approvals from the County and the existence of all necessary off-site right-of-way and easements. The Owner shall not be responsible for obtaining any off-site right-of-way or easements and shall not be required to incur any cost or expense with respect to the same. Upon completion of construction, the Owner shall cooperate with the County to seek to have the roadway constructed as a result of this proffer V.B accepted into the state system of public roads.

C. Signalization. The Owner shall: (i) submit to VDOT a warrant analysis prior to the issuance of the 300th residential zoning permit for the intersection of Haleybird Drive and City Center Boulevard, and (ii) within 24 months of the issuance of an occupancy permit for the 50,000th square foot of non-residential development, the Owner shall submit to VDOT a warrant analysis for the intersection of the site entrance and Nokes Boulevard. If the need for said signals is not substantiated by a warrant analysis, the owner shall cease to be obligated to provide signals but may provide a signal at a future time, if deemed warranted and approved for installation at such future time.

The Owner shall construct such of the signals referenced in the paragraph above that VDOT has deemed warranted and has approved for installation. Any signals provided shall include a pedestrian activated device, consistent with VDOT approvals.

In the event a fire and rescue station is constructed on the Property, the Owner shall install, if requested by the County and approved by VDOT, a signal designed to control traffic for emergency vehicles leaving the site. Furthermore, a signal pre-emption device will be included and a signal installed at the site entrance at Nokes Boulevard, if such signal is warranted, and if requested by the County.

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D. Transit Services.

1. **Bus Shelters.** In order to facilitate transit services, the Owner shall construct two bus shelters in locations within the area bounded by Route 28, Route 7, City Center Boulevard and Nokes Boulevard, inclusive of the roadways defining this area, to be designated by the Office of Transportation Services ("OTS") or such other appropriate Loudoun County agency. OTS shall have the right to request the desired location at any time from and after the issuance of the zoning permit for the 400th residential unit. Any bus shelter constructed shall be consistent with the County's minimum bus shelter design standards as of the date of approval of this application, ZMAP 2002-0017.

2. **Transit Contribution.** The Owner shall pay to the County Five Hundred and Seventy Five and 00/100 Dollars (\$575.00) for each residential unit constructed on the Property (the "Transit Contribution"). The Transit Contribution shall be paid prior to issuance of the zoning permit for each such residential unit. If the Board of Supervisors approves ZMAP 2007-0001, and, if that approval includes a proffered commitment to construct a Transit Center in proximity to Dulles Center Boulevard, the Owner shall have no obligation to pay the Transit Contribution described in this proffer, V.D.2.

E. **Construction Traffic.** Construction traffic will be directed by the Owner to access the Property via Nokes Boulevard or Haleybird Drive. For any construction on the Property after a Fire/Rescue station has been constructed on land dedicated to the County pursuant to Proffer VI.B, the Owner will provide to the Department of Fire and Rescue Services an access plan for construction vehicles to ensure that access to the Fire/Rescue site is not impeded during construction on other parts of the Property. Such a plan shall be provided prior to the issuance of the first zoning permit for the Property, following the opening of the Fire/Rescue station operation.

F. Internal Access to Public Use Site

1. The Owner shall provide access to the Public Use Site from the private road extending through the Property from Nokes Boulevard to the rear of the Public Use Site ("Major Travelway"), via the roadway depicted on Sheet 4 of the Rezoning Plat as the "Internal Access to Public Use Site." Said access shall be included in site plans that include the Major Travelway and constructed concurrently with the Major Travelway. If a fire and rescue station is constructed on the Public Use Site, said point of access and the Major Travelway shall be constructed to engineering specifications for a roadway that can accommodate emergency vehicles.

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2. If a fire and rescue station is constructed prior to the commercial property which includes the Major Travelway, the Owner shall, at the request of the County, construct a temporary internal access from the Nokes Boulevard entrance to the Property to the fire and rescue site. The interim access shall be closed when the Major Travelway is open for use and the Public Use Site can be accessed therefrom.

3. Within 60 days of submission of a site plan for a fire and rescue site on the Public Use Site, the Owner shall propose a Road Maintenance Agreement whereby the Owner is responsible for ordinary maintenance of the interim access, if constructed, and the permanent internal point of access depicted on Sheet 4 of the Rezoning Plat as the "Internal Access to Public Use Site." The Agreement shall stipulate that the County shall have no responsibility for the plowing, maintenance, replacement or construction of the Major Travelway or Internal Access to Public Use Site.

VI. CAPITAL FACILITIES and OPEN SPACE EASEMENT CONTRIBUTIONS

A. Capital Facilities Contributions. The Owner shall pay to the County a Capital Facilities Contribution in the amount of Ten Thousand Nine Hundred Thirty Seven and 00/100 Dollars (\$10,937.00) for each residential unit constructed on the Property (the "Capital Facilities Contribution"). The Capital Facilities Contribution shall be paid prior to issuance of the zoning permit for each such residential unit.

B. Public Use Site.

1. **Size of Site and Timing of Dedication.** The Owner shall dedicate to the County approximately 3.3 acres for a public use site (the "Public Use Site"), as shown on Sheet 4 of the Rezoning Plat. The Public Use Site shall be dedicated within 60 days of County approval of a record plat that creates such lot. The Owner shall submit an application to create a parcel within 60 days of the final unappealable approval of ZMAP 2002-0017. The Owner shall not grant easements that would materially adversely impact the development of the Public Use Site, nor make use of the Public Use Site, such as staging of construction or soil stockpiling, after approval of ZMAP 2002-0017 but before dedication to the County.

2. **Utilities.** The Owner shall be responsible for extending water and sewer services from the current terminus of such services to the boundary of Public Use Site.

3. **Acceptable Uses.** The Public Use Site shall be available first for the development of a Fire/Rescue Station, to be developed consistent with SPEX 2008-0026. At

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such time as the Department of Fire, Rescue and Emergency Management determines not to use the Public Use Site for a Fire/Rescue Station or related use, the Owner shall be notified and said site shall be available for use by the County as a park.

4. **Capital Facilities Credit.** Consistent with County Comprehensive Plan Policy, the Owner shall receive a credit against its Capital Facilities Contribution equal to the appraised value of the Public Use Site based on an appraisal performed by an appraiser on the County's approved list.

C. **Open Space Easement Program.** The Owner shall pay to the County for use in its Open Space Easement Program, a contribution in the amount of One Hundred Thirty Four and 81/100 Dollars (\$134.81) for each residential unit constructed on the Property (the "Open Space Easement Contribution"). The Open Space Easement Contribution shall be used by the County to purchase open space or to provide active recreation facilities in the Sterling Planning Subarea.

D. **Escalation Clause.** Sums proffered in Proffer V.D.2, "Transit Services," and Proffer VI.A, "Capital Facilities Contributions," shall escalate by 2% every five years, from the time of County zoning approval.

VII. **ROUTE 28 TRANSPORTATION IMPROVEMENT DISTRICT PAYMENT**

As required by Section 15.2-4608 of the Virginia Code, as amended, on or before thirty (30) days following the final unappealable approval by the Board of ZMAP 2002-0017, the Owner shall tender to the County a lump sum payment in the amount of \$_____ which sum shall be the present value of the future special improvement taxes estimated by the County to be lost as a result of rezoning the Property to a residential use. Upon such payment, the Property shall not be obligated to pay taxes to the Route 28 Transportation Improvement District.

VIII. **PEDESTRIAN NETWORK, RECREATION AND THE ENVIRONMENT**

A. **Pedestrian Network.** The Owner shall construct a pedestrian circulation system consisting of crosswalks, sidewalks and trails on the Property in substantial conformance with the circulation system illustrated on Sheet 4 of the Rezoning Plat, including the off-site sidewalk which extends from the intersection of Haleybird Drive and City Center Boulevard to Dulles Town Circle, and the crosswalk at the site entrance from Haleybird Drive. Sidewalks need not be constructed in locations where trails are constructed to provide the pedestrian circulation linkage depicted on Sheet 4 of the Rezoning Plat, but sidewalks shall be constructed on both sides of each private road within the Property. Sidewalks and trails shall be constructed at a width and of materials as required by the FSM. Sidewalks and trails shall be constructed in

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phases concurrently with the development of land in areas adjacent to such sidewalks and trails. Sidewalks and trails outside the public right-of-way shall be subject to an easement providing access to the general public in addition to residents of the Property. The Owner shall provide a minimum of 4 bike racks on the Property in locations selected by the Owner.

B. Recreation. The Owner shall construct active recreation uses in the approximate locations depicted on Sheet 4 of the Rezoning Plat. The active recreation uses shall, at a minimum, include:

- 5,000 square foot tot lot playground
- 8,000 square foot bathhouse/clubhouse/community center
- 2,500 square foot swimming facility, to include a swimming pool with a minimum size of 1,400 square feet
- Community and Village Greens.

The tot lot/playground, clubhouse facility, and pool facilities will be constructed prior to the issuance of the 250th zoning permit. The network of Community and Village Greens will be constructed in a manner concurrently with the development of land areas adjacent to such community and/or village greens.

C. Tree Conservation. Within the areas identified on the Rezoning Plat as "Tree Conservation Areas," the Owner shall implement a plan designed to preserve healthy trees from construction impacts provided, however, that trees may be removed to the extent necessary for the construction of trails and Stormwater Management Facilities that are required pursuant to the proffers and/or shown on the approved construction plans and profiles as lying within such Tree Conservation Areas and for the construction of utilities necessary for development of the Property. Within the area depicted as Archaeology Area, however, neither utilities nor stormwater management facilities are permitted. Within the area depicted as Sections A and B on the Stream Valley Plan described on Sheet 8, the areas more specifically identified as "Naturalized Planting Area" may be maintained as needed by the Owner and are excluded from the requirement to maintain tree canopy.

A minimum of eighty (80) percent of the canopy within the cumulative Tree Conservation Area depicted on the Rezoning Plat will not be removed, exclusive of stands of Virginia Pine over 25 years in age. In the event that the eighty (80) percent canopy threshold cannot be achieved as a result of the construction of trails or Stormwater Management Facilities required pursuant to these proffers or as a result of the construction of utilities necessary for development of the Property within the designated Tree Conservation Areas, such lost canopy will be recaptured

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elsewhere onsite in locations to be designated at the discretion of the Owner in consultation with the County. Boundaries of all Tree Conservation Areas shall be delineated on the record plat recorded for each section of the development, as well as on all site plans for the Property.

If, during construction on the Property, it is determined by the Owner's certified arborist and the County that any healthy tree located within the boundaries of any of the Tree Conservation Areas described in this proffer has been damaged as a consequence of construction and will not survive, then, prior to bond release on any section containing or immediately adjacent to a tree conservation area, the Owner shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The placement of the replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area as requested by the County.

The Property Owners Association ("POA") documents shall include a provision that prohibits removal of trees in Tree Conservation Areas, as shown on the record plat, after construction has been completed by the Owner, without specific permission of the County Forester, except as necessary to accommodate forest management techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such management techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or property. The POA documents shall clearly state that such provisions prohibiting tree removal shall not be amended by the Owner or the POA without written approval from the County. The record plat for each portion of the Property containing a Tree Conservation Area shall contain a note stating that the removal of trees within a Tree Conservation Area is prohibited except in accordance with the Declaration of Covenants.

D. Wetlands Mitigation. For any wetland and stream impacts on the Property, in conjunction with the permitting process by the United States Army Corps of Engineers ("USACE") and Virginia Department of Environmental Quality ("DEQ"), and if required by the USACE and/or DEQ, the Owner shall provide wetland mitigation in the following priority order: 1) onsite, 2) within the Broad Run Watershed Area within the same Loudoun County geographic Planning Policy Area, 3) within the Broad Run Watershed Area within another Loudoun County geographic Planning Policy Area, or 4) elsewhere within Loudoun County, subject to approval by USACE and DEQ. If no such areas are available within the County at a cost equal to or less than 110% of the cost of mitigation options elsewhere in the Potomac River Watershed, as verified by County Staff, the Owner shall be permitted to provide wetland mitigation outside of Loudoun County but within the Potomac River Watershed. This proffer does not preclude the Applicant from being able to use other means of mitigation acceptable to the Director of

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Building and Development.

E. Noise Mitigation. For all residential uses in the R-24 zoning district, the Owner shall ensure that interior noise levels will not exceed an average sound level of 45 dBA. The appropriate noise study conducted and certified by a licensed acoustical engineer shall be submitted concurrent with residential site plan to ensure that this interior noise standard is achieved.

F. Stream Valley Plan. The Owner shall submit to the County, concurrently with the first site plan application for any development in the R-24 zoning district, a re-vegetation plan as described on Sheet 8 to guide installation of plant material specified for Section A and Section B (located off-site) of the Stream Valley Plan provided on Sheet 8 for determination that such plan is consistent with Sheet 8. Installation, consistent with said re-vegetation plan, once it has been determined to be consistent with Sheet 8, shall be complete prior to issuance of the first occupancy permit for the R-24 zoning district. The restrictions described in Proffer VIII.C, "Tree Conservation Area," are applicable to Sections A and B of the Stream Valley Plan.

G. Lighting. All site lighting will be downward directed, fully shielded and in conformance with the Zoning Ordinance.

H. Sustainable Development.

1. **Construction Waste Management.** Prior to the approval of each building permit, the Owner shall provide the County with a Construction Waste Management Plan ('Plan') for the building associated with such permit for diverting from landfill disposal at least 50 percent of the construction debris generated by building construction on the Property. The Plan shall outline recycling and/or reuse of waste generated during construction. The Plan shall outline specific waste streams and identify the means by which waste will be managed (reused, reprocessed on-site, removed by licensed haulers for reuse/recycling, etc...). The Plan must include letters from contracted haulers, reprocessors, and recyclers indicating that they are able to manage waste from construction on the Property, in accord with the Plan. The Owner shall use commercially reasonable efforts to implement the Plan throughout construction of the associated building.

2. **Water Conservation.** For all residential development, the Owner shall provide that the following types of fixtures and/or building components used in the project (in dwelling units and common areas) shall have earned the U.S. EPA's Water Sense label, or a similar standard: toilets, and sink fixtures. The Owner shall submit a statement to the County

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listing all Water Sense-qualified components prior to issuance of each residential certificate of occupancy.

3. **Energy Efficiency.** For all residential development, all of the following appliances, fixtures, and/or building components used in the project shall have earned the U.S. EPA's Energy Star label, or similar standard: HVAC equipment, clothes washers, clothes dryers, dishwashers, and refrigerators. The Owner shall submit a statement listing all Energy Star-qualified components to be installed in each unit of the project prior to the issuance of the first residential certificate of occupancy.

For the residential lighting in the dwelling units, the Owner shall provide energy efficient fixtures that provide energy efficiency in lighting. For the commercial lighting in common areas which include lobbies, corridors, stairwells, common rooms, and fitness rooms, the Applicant shall provide energy efficient fixtures, that provide energy efficiency in lighting.

IX. EMERGENCY SERVICES

A. Residential. At the time of the issuance of each zoning permit, the Owner shall make a one time contribution of One Hundred Twenty Dollars (\$120.00) per unit for each residential dwelling unit, which shall be payable to the County, for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing fire and rescue services to the Property. At such time as the primary fire and rescue services to the Property are no longer provided by a volunteer fire and rescue company, the obligation to make these contributions at the time of issuance of zoning permits shall cease. In the event one service ceases to be provided by a volunteer company, the contribution will be halved and continue to the other volunteer company. The intent of these provisions is to support a volunteer fire and rescue system so long as it is a primary provider of fire and rescue services to the Property.

B. Non-Residential. At the time of the issuance of each zoning permit for non-residential uses, the Owner shall make a one-time contribution of \$0.10 per gross square foot of non-residential floor area, to the County, for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. For the purpose of this Section, non-residential floor area includes commercial and office area, but excludes HOA facilities and County owned facilities such as schools and or fire and rescue stations. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing service to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer

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companies, the obligation to make the contributions listed within this paragraph shall cease. The intent of these provisions is to support a volunteer fire and rescue system so long as a volunteer system is the primary provider of fire and rescue services to the Property. If only one of these services ceases to be provided by a volunteer company, then the contribution shall be halved and shall continue to be provided to the remaining volunteer company.

X. OWNERS ASSOCIATION

Prior to approval of the first record subdivision plat or site plan, whichever is first in time, the Property will be subjected to the Owners Association for Dulles Town Center as set forth in the Declaration for Dulles Town Center recorded as Instrument Number 20081224-0074249, among the land records of Loudoun County, Virginia.

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XI. BINDING EFFECTS

The Owner warrants that it owns all interests in the Property; that it has full authority to bind the Property to these conditions; that no signature from any third party is necessary for these Proffers to be binding and enforceable in accordance with their terms; that the undersigned is fully authorized to sign these Proffers on behalf of the Owner; and that these Proffers are entered into voluntarily.

DTC Partners, LLC, a Virginia limited liability company

By: Lerner Enterprises LLC, its Manager

By: _____
Its: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared _____, as _____ of Lerner Enterprises, LLC, as Manager of DTC Partners, LLC, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF, I have affixed my hand and seal this _____ day of _____, 2009.

Notary Public

My Commission Expires: _____

FINDINGS for DENIAL (November 19, 2009)

Parc Dulles II

ZMAP 2002-0017, SPEX 2008-0026, SPEX 2008-0027

1. The proposal does not conform to the land use policies of the Revised General Plan, which call for Keynote Employment development in this area. Residential uses are not permitted in areas designated as Keynote Employment.
2. The proposal does not conform to the Board resolution dated April 17, 1996, prohibiting residential conversions of properties in Keynote Employment areas.
3. In accordance with Revised General Plan policies, residential conversions are not permitted in the Route 28 Tax District except in specific locations.
4. The proposal reduces the amount of land available for employment and/or industrial development.
5. The application does not mitigate economic development concerns related to fiscal impacts, phasing / linkage between commercial and residential components, and the development of minimum densities.
6. The application does not mitigate transportation impacts regarding cash equivalencies for future traffic signals, and contributions for transit services.
7. The application does not mitigate capital facilities impacts since the application does not provide a contribution amount consistent with Board policies.
8. Schools serving the subject site are over capacity or close to capacity.

LOUDOUN COUNTY, VIRGINIA
Office of The County Administrator

18 North King Street, Leesburg, Virginia 22075-2891
Metro 478-1850 or (703) 777-0200

At a meeting of the Board of Supervisors of Loudoun County, Virginia, held in the County Administration Building, Board of Supervisors' Meeting Room, 18 North King Street, Leesburg, Virginia, on Tuesday, December 17, 1991 at 12:00 noon.

PRESENT: Betty W. Tatum, Chairman
Charles A. Bos, Vice Chairman
Betsey J. S. Brown
James F. Brownell
Thomas S. Dodson
Ann B. Kavanagh
Steve W. Stockman
H. Roger Zurn

IN RE: ZONING MAP 90-0014/DULLES TOWN CENTER
SPECIAL EXCEPTION 1991-0043/ DULLES TOWN CENTER
CONVENIENCE USES
SPECIAL EXCEPTION 1991-0045/ DULLES TOWN CENTER HOTEL USES

Mr. Stockman moved approval of Zoning Map 90-0014, Dulles Town Center and the accompanying modifications to the Zoning Ordinance, Land Subdivision and Development Ordinance and the Facilities Standards Manual (as identified in exhibits C and D of the Dulles Town Center proffer statement dated December 9, 1991); subject to the proposed development plan for Dulles Town Center (which includes FAR averaging on the PD-OP portion of the site) dated July 5, 1990, revised December 6, 1991 (as identified in exhibit B of the Dulles Town Center proffer statement dated December 9, 1991), the Dulles Town Center proffer statement (inclusive of all exhibits dated December 9, 1991 and the letter of clarification dated December 16, 1991 from Lerner Enterprises.

Mr. Stockman further moved approval of Special Exception 1991-0043, Dulles Town Center Convenience Uses; subject to the Special Exception Plat dated June 17, 1991 revised to November 14, 1991, the Neighborhood Retail Center plan dated June 27, 1991, revised to November 14, 1991 and the attached findings.

Attachment 4

December 17, 1991

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ZMAP 90-0014/Dulles Town Center
SPEX 1991-0043/Dulles Town Center
Convenience Uses
SPEX 1991-0045/Dulles Town Center Hotel Uses

Mr. Stockman further moved approval of Special Exception 1991-0045, Dulles Town Center Hotel Uses, subject to the Special Exception Plat dated June 17, 1991, and the attached findings and conditions.

Seconded by Mr. Zurn.

Voting on the Motion: Supervisors Tatum, Bos, Brownell, Dodson, Stockman and Zurn - Yes; Brown and Kavanagh - No.

A COPY TESTE:

K. M. Bowers

ACTING COUNTY ADMINISTRATOR FOR THE
LOUDOUN COUNTY BOARD OF SUPERVISORS

PLM:12/17/91L

LERNER ENTERPRISES

December 16, 1991

The Honorable Betty W. Tatum
Chairman
Loudoun County Board of Supervisors
18 North King Street
Leesburg, Virginia 22075

Lawrence E. Kelly, Esquire
Assistant County Attorney
County of Loudoun
102 Heritage Way, N.E.
Suite 300
Leesburg, Virginia 22075

RE: Dulles Town Center - ZMAP 1990-0014;
SPEX 1991-0043; and SPEX 1991-0045

Dear Madam Chairman and Mr. Kelly:

On Monday, December 9, 1991, the Board of Supervisors held a public hearing on the above-referenced land development applications. During the public hearing, a request was made by Mr. Roger Burdette, a resident of Countryside, that (1) the capacity of the proffered park and ride lot be increased from 75 vehicles to 100 vehicles and (2) the building heights in Land Bay E (between City Center Boulevard to the east and the cul-de-sac located to the west in Land Bay E) and Land Bay N be limited to a maximum height of seven (7) stories at the 150' foot building setback from Route 7, provided that building heights may increase incrementally south of the Route 7 150' foot building setback toward the Town Center Core area not to exceed the height limitations permitted in Paragraph 12A of the December 9, 1991 Proffer Statement.

By this letter, the party signatore to the Proffers dated December 9, 1991, hereby clarifies the Proffers as follows:

1. Paragraph 12A of the Proffers is hereby clarified and confirmed by the following language:
 12. Development in the Town Center will conform with the following design guidelines:

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- A. If approved by the Board, Building Heights within the Town Center will be massed with taller buildings concentrated in the core framing the Town Center Common Area (i.e., Land Bays F and K). Building Heights are planned to range in height up to the greater of 100 feet or to the tallest height permitted by the LCZO at the time of development. One signature building may be located in each of the Land Bays designated "E", "H" and "I". With the exception of these planned signature buildings, building heights in the Town Center will transition to lower building heights east and west of the Town Center Common Area.

With the exception of the one planned signature building mentioned above, Building heights in Land Bay E (between City Center Boulevard to the east and the cul-de-sac located to the west in Land Bay E) and in Land Bay N shall be limited to a maximum height of seven (7) stories at the 150' foot building setback from Route 7. Provided that building heights may increase incrementally south of the Route 7 150' foot building setback toward the Town Center Core area not to exceed the height limitations and provisions set forth in the above paragraph.

2. Paragraph 27 of the Proffers is hereby clarified and confirmed by the following language:

27. Parking and Ride Lot

The Applicant shall provide the County upon request, as its contribution toward the operation of a regional park and ride facility, a nonexclusive designated parking area for up to 75 100 passenger vehicles. This park and ride lot may either be located on site or off site of the Property.

In response to concerns raised by the County Attorney and Planning Staff, the Applicant further clarifies and confirms the following proffer language:

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1. Paragraph 23 of the Proffers is hereby clarified and confirmed by the following language:

23.E. City Center Boulevard/Loudoun Tech Access

Upon request by the County and/or VDOT, but not sooner than submission of the record plat for the PDH-30 portion of the Property adjacent to such roadway, the Applicant shall dedicate a sufficient amount of on-site right-of-way to provide for the construction of a four lane undivided roadway commencing at the property line of Loudoun Tech Center and terminating at City Center Boulevard as shown on the Concept Plan.

The Applicant shall construct a half section of a four lane undivided roadway commencing at City Center Boulevard to the west and terminating at Ridgetop Circle to the east in the Loudoun Tech Office Park. Said road is to be constructed within the right-of-way to be dedicated on site and within the dedicated right-of-way located on the adjacent Loudoun Tech Office Park site. Said road (on-site and off-site) shall be constructed concurrent with the development of the PDH-30 portion of the Property which it serves.

2. Paragraph 37 of the Proffers is hereby clarified and confirmed by the following language:

XV. ROUTE 28 HIGHWAY IMPROVEMENT DISTRICT PDH-30 PROPERTY

37. In the event the Board zones a portion of the Property to the PDH-30 zoning district, the Applicant shall, ~~pursuant to all laws governing the Route 28 Highway Improvement District, continue paying taxes to the Route 28 Highway Improvement District (the "Route 28 District"). Such taxes shall be paid in a timely manner in accordance with the Route 28 District and shall be~~ contribute to the County either for payment to the Route 28 Highway Improvement District or to be used otherwise in the County's sole discretion an amount of cash to be computed by multiplying the total acreage contained in the PDH-30 area, less dedicated right-of-way, by the per acre Route

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28 Highway Improvement District Tax assessed against the adjoining vacant property to the south zoned PD-IP. ~~property.~~ Such vacant PD-IP property was the subject of Special Exception 90-0071. The Applicant shall make such payments in a timely manner consistent in time with the collection of taxes on properties subject to the Route 28 Highway Improvement District assessment. The Applicant shall continue paying the amount determined above ~~by the preceding sentence~~ to the ~~Route 28 District~~ County until such time as there is constructed on the PD-OP or PD-CH portion of the Property an improvement(s) yielding in taxes an amount equal to or greater than the contribution as required above. Provided, however, that as improvement(s) are made, the contribution shall be reduced by an amount equivalent to the increase in taxes provided by such improvement(s). ~~an equal amount of taxable income to the Route 28 District.~~

3. Paragraph 41 of the Proffer is hereby clarified and confirmed by the following language:

41. Interpretation

The Applicant acknowledges that there have been discussions with the County with regard to the relationship of these proffers to the proffers contained in ZMAP 86-53. The County and Applicant have reviewed the concept plans contained in both sets of proffers and ~~agree~~ it appears that the concept plan attached to ZMAP 86-53 and the Concept Plan contained herein substantially conform. Moreover, as it pertains to the development of the Property, the Applicant will be required to adhere to the transportation phasing program set forth herein in Exhibit E. The Applicant acknowledges that in the event there is a conflict between the proffers contained in ZMAP 86-53 and the proffers contained in this ZMAP 90-14, the Zoning Administrator shall be requested to determine which proffer paragraph(s) control in his or her opinion. The Zoning Administrator's decision, when rendered, shall be dispositive of

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the issue subject to such appeal rights or
amendment procedures at Applicants disposal.

The above described clarifications to the Proffers are acceptable to
Loudoun-LSJJ Partnership, the Applicant for ZMAP 1990-0014, SPEX 1991-0043
and SPEX 1991-0045.

We very much appreciate your cooperation and consideration of the
clarifications to the Proffers dated December 9, 1991. We look forward to
working with the County in future to implement this unique and visionary
project.

LOUDOUN-LSJJ PARTNERSHIP

By: Lerner Enterprises Limited Partnership
General Partner, by its General Partner

By: Signature
Theodore N. Lerner, General Partner

By: Signature
Jacob K. Schwalb, General Partner

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Lawrence E. Kelly, Esq.
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STATE OF MARYLAND
COUNTY OF MONTGOMERY, to wit:

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Theodore N. Lerner, General Partner of Lerner Enterprises Limited Partnership, a Maryland Limited Partnership, which is a General Partner of LOUDOUN-LSJJ PARTNERSHIP, whose name is signed to the foregoing, appeared before me and personally signed and acknowledged the same on behalf of LOUDOUN-LSJJ PARTNERSHIP, this 14th day of December, 1991.

Signature
Notary Public

My Commission Expires:

STATE OF MARYLAND
COUNTY OF MONTGOMERY, to-wit:

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Jacob K. Schwalb, a General Partner of LOUDOUN-LSJJ PARTNERSHIP, whose name is signed to the foregoing, appeared before me and personally signed and acknowledged the same on behalf of LOUDOUN-LSJJ PARTNERSHIP, this 4th day of December, 1991.

Signature
Notary Public

My Commission Expires:
